

ticular matter carefully or correctly or not, was in controversy and it was found in favour of the police, it is not open to this Commission to go into the matter again. But this would still depend upon the question whether that matter was a *lis inter partes*.

7.4 In a criminal case, the matter substantially and materially in issue is whether a person brought before the court is guilty of the offence of which he is charged; but in deciding this material issue if certain matters become material then any decision on those matters also becomes *res judicata*. In *Pritam Singh's Case*, one of the questions raised before the High Court was whether one of the accused had a pistol in his possession. That accused person had in a different proceeding been acquitted of the possession of that pistol by the court of an erstwhile Indian State—Faridkot State—and it was argued before the High Court that having been acquitted of being in possession of that pistol, he could not again be tried for having that pistol and using it in the commission of murder. The High Court accepted that plea and that piece of evidence was excluded from consideration against that particular accused. In the opinion of the Commission it is matters of this kind which can be termed matters materially and substantially in issue.

7.5 In the trial of the Gandhi Murder Case, or at the appellate stage, whether the police investigated a matter properly or not could not be a matter materially and substantially in issue because on the efficiency of the investigation of a case does not depend the acquittal or otherwise of an accused person, although it has been ruled in certain jurisdictions that evidence improperly collected or illegally obtained cannot sustain a conviction. In the Inquiry before this Commission, the matters in controversy are (1) whether the investigation in the Bomb Case was proper or improper; (2) whether as a consequence of it or even without that matter being taken into consideration, the police had given proper protection to Mahatma Gandhi; (3) whether by improper or negligent investigation the accused were allowed to return to Delhi and commit the murder; and (4) whether murder could, by adequate measures being taken by the police, have been prevented. This may depend upon whether the investigation which was carried on from the time that the bomb was thrown at 4.15 P.M. on the 20th January to the 30th January, 1948, was efficient or not; and upon the question whether the police by its inaction, improper investigation, allowed the persons in the conspiracy to escape and remain undetected and thus they were enable to carry out the object of their conspiracy to wit to murder Mahatma Gandhi. In the opinion of the Commission that matter was not before the High Court and any decision given by the High Court is not *res judicata* within the rule laid down by the Supreme Court in *Pritam Singh's Case*. Besides, there is no *lis* before a Commission of Inquiry.

7.6 Investigation by the police and the conduct of the inquiry or trial in a case are two separate compartments separately treated in the Code of Criminal Procedure and the Courts except to the extent so provided in the Code have no jurisdiction on police investigations which was pointed out by the Privy Council and Khawaja Nazir Ahmad's Case. 71 I.A. 203; A.I.R. 1945 P.C. 18.

7.7 Judge Atma Charan had found the police guilty of inaction and, therefore, guilty of not having prevented the death of Mahatma Gandhi. The High Court held that those remarks were not justified although no petition had been filed before the High Court for the expunction of those remarks.

7.8 It may be remarked that *res judicata* in Criminal cases has the effect of preventing double jeopardy, i.e., the person acquitted cannot be again tried for the same offence and a person convicted cannot again be tried for the same offence. But there is nothing to prevent the sovereign from satisfying himself by collateral proceedings that the conviction was not improperly obtained, in order to exercise its powers of mercy or paying compensation to the wrong man. Similarly, if an accused has been acquitted by improper means, the sovereign may try to find out the illegality though perhaps the verdict of not guilty cannot be disturbed to punish even a guilty person who has obtained an acquittal. But double jeopardy is not the question involved in this case.

7.9 In the High Court after dealing with the question of negligence or otherwise of the Police, Mr. Justice Bhandari said :

"The evidence on record satisfies me (a) that no opportunity was afforded to the police to explain the circumstances which prevented them from apprehending Nathuram before the 30th January and thereby saving the life of Mahatma Gandhi; (b) that Madanlal failed to supply the names of the conspirators to the police; (c) that even if those names were supplied it was extremely difficult, if not impossible, for the police to arrest Nathuram who was going about from place to place under assumed names and who was determined to assassinate Mahatma Gandhi even at the risk of losing his own life."

Mr. Justice Achhru Ram said :

"Before concluding I want to advert to some remarks made by the learned Special Judge as to the slackness shown in the investigation during the period between the 20th and the 30th January 1948 but for which, in the view of the learned Judge, the tragedy could have been prevented. I must say that I have not been able to discover any justification at all for these remarks which in my judgment were wholly uncalled for."

Mr. Justice Khosla said :

"I concur with the conclusions arrived at by my learned brothers Bhandari and Achhru Ram JJ."

7.10 In coming to the conclusion at which he arrived, Mr. Justice Bhandari has analysed the evidence and relied on the following facts :—

- (1) That the authorities knew nothing about the conspiracy before the 20th January and that they came to know about it at 4 o'clock on the 20th January when Professor Jain

informed Mr. Kher and Mr. Morarji Desai. (There is evidently some mistake with regard to the date. Prof. Jain gave the information on the 21st January.)

- (2) On receipt of Professor Jain's information Mr. Morarji Desai, acted with "commendable promptitude" in relaying the information to Mr. J. D. Nagarvala at the Central Railway Station on the same day at 8.15 P.M.
- (3) Mr. Nagarvala organised a look-out for the accused and a watch on the house of Savarkar from 9.30 P.M. on the same day.
- (4) Madanlal was interrogated "but the inquiries do not appear to have revealed any useful information except in regard to Karkare".
- (5) In a statement before the Court Madanlal stated "the police asked me the names of co-workers of Badge who were putting up in the Marina Hotel. I told them that I did not know their names". (There is some mistake here also, because no one knew the name of Badge at Delhi.)
- (6) Police rushed to the Marina Hotel but on arrival there they found that the co-conspirators had escaped and inquiries in the hotel only disclosed that two persons were staying under the names of M. Deshpande and S. Deshpande, who after paying their bills had hurriedly left the hotel.
- (7) Police then visited the Hindu Mahasabha Bhawan and found the room where Badge, Shankar, Madanlal and Gopal Godse had stayed, vacant.
- (8) Inquiries were made at Sharif Hotel but no information could be obtained from there. (These inquiries, it may be pointed out, were on the 24th January, and not on the 20th.)
- (9) In this way Badge, Shankar and Gopal Godse had made themselves scarce from Delhi after the explosion and they did not go back to the Hindu Mahasabha Bhawan.
- (10) On the 21st January, the position was that although the police were aware of the existence of a conspiracy to assassinate, the only conspirators who were known to them were Badge, Karkare, Madanlal. (It appears there is a mistake in regard to Badge because his name was not known on the 21st and not till after the murder was his name known at Delhi.)
- (11) A Deputy Superintendent and an Inspector of Police were flown to Bombay and they reached Bombay on the 22nd. "Left Delhi by air and reached Bombay on the 22nd." (It appears there is some mistake here because they reached Bombay on the 21st.)
- (12) They desired the arrest of Karkare and his associates in connection with the Bomb explosion. They stayed in Bombay till 23rd.

- (13) After their departure, Mr. Nagarvala continued the search for Karkare and his associates "if any". Karkare was not known to the Bombay Police.
- (14) On the 24th January Mr. Nagarvala issued instructions for the arrest of Badge.
- (15) Mr. Rana, D.I.G., C.I.D., reached Bombay on the 27th "and (Nagarvala?) reported developments to him".
- (16) On the same day, Mr. Nagarvala had a telephonic conversation with the D.I.B., Delhi, to whom he reported developments.
- (17) Badge could not be traced till the 31st.
- (18) The fatal shots were not fired either by Badge or by Karkare or by Madanlal, and even if they had been arrested immediately after the explosion, the tragedy could not be avoided.
- (19) Evidence did not disclose that the names of any other conspirators were known. If they had been known, the police could have put them under arrest.
- (20) The movements of Karkare, Badge and Shankar were not known during the period 20th January to 30th January, Badge and Shankar were arrested at a place where they were not expected to be.
- (21) The only person who could have been arrested if they wanted to arrest him, was Gopal Godse. But the police could not have known that he was concerned in the crime.
- (22) The police could not have traced the movements of Nathuram Godse and Apte who, according to the learned judge, were moving from place to place under assumed names.
- (23) "It was impossible for any police officer, however capable and efficient he might have been, to have prevented Nathuram from committing the crime on which he had set his heart."
- (24) Even if the police were aware on the night of the 20th that Nathuram and Apte were concerned in the conspiracy, it is extremely "doubtful if they could have stopped them from achieving their end".
- (25) Immediately after the explosion, the police sent a number of persons to various railway stations in order to prevent the suspects from escaping by train.
- (26) Madanlal did not know the names of the accused and did not give them to the police. Therefore, "it is idle to contend that the police could have prevented the tragedy notwithstanding the reticence of Madanlal"
- (27) Nathuram Godse was desperate and the police could not have stopped him from achieving his object.

"These were the reasons on which Mr. Justice Bhandari came to the conclusion that under the circumstances it was impossible for the police to have stopped the happening of the tragedy even if they knew of Godse and Apte being in the conspiracy and it was unfair to blame them without giving them an opportunity of giving their explanations.

7.11 Mr. Justice Achhru Ram has not given any reasons other than what have already been stated.

7.12 This Commission is not sitting as a Court of Appeal against the High Court nor is it open to it to find fault with the findings of the High Court, still less to readjudicate on matters already dealt with by it. But this principle applies to matters which deal with the guilt or innocence of the accused or matters so connected with the decision of that question as to be part of it, but not to matters wholly subsidiary which do not affect the merits of the case e.g. the commission of the offence and those who committed it. Therefore, it is open to the sovereign or the State to find out through the agency of a Commission whether its protective and investigational machinery was properly geared to the protection of the Mahatma. In the opinion of the Commission the finding of the High Court about the quality of the investigation is not binding on it, because it was not a matter materially and substantially or even collaterally in issue at the trial which falls within the rule of *res judicata* as stated in *Sambasivam's* case quoted above. The Commission is not prevented from going into the matters set before it. Commission must, therefore, proceed to find out as to whether on the facts which have been placed before it, Mahatma Gandhi could or could not be protected and whether any authority is guilty of remissness in the discharge of its duty.

7.13 As has been said, the rule of *res judicata* is inapplicable and there is no rule of propriety or fairness which would bar such an inquiry.

7.14 The objection on the ground of want of jurisdiction is, therefore, overruled.

7.15 In England, inquiries have been set up after the decision of criminal courts even to inquire into the correctness of convictions for murder, i.e., whether the accused was rightly convicted or otherwise. That was the case of *Timothy John Evans*. After Dr. Ward's case and the revelations made in regard to Miss Christie Keeler, an Inquiry was set up presided over by Lord Denning to inquire into the adequacy or otherwise and defects, if any, in the police security arrangements of the United Kingdom. An Inquiry was also set up under the chairmanship of Lord Radcliffe in regard to the intelligence services of foreign countries and subversive organisations in the country. Thus, setting up of an inquiry after decisions of cases in regard to matters which may be subsidiary to the issues at the judicial trial, are not a matter of uncommon occurrence in the United Kingdom.

7.16 The case of *Timothy John Evans* and *John Christie* was this:

In November, 1949, Evans, a young labourer resident in North Kensington, went to the police and made a confession that he had 'disposed of' of his wife down a drain in his house in Rillington Place in North Kensington. His wife's body along with that of his little child was found not down the drain but concealed in a wash-house in their home. Evans afterwards tried to withdraw his confession, but there did not appear at the time anybody else who had the remotest motive for committing, or against whom there was the least suspicion that he had committed, the murders. Evans was, therefore, convicted of the murder of his child¹. He was sentenced to death, and executed in 1950 for the murder of the child.

Evans was convicted largely on the evidence of his house-mate Christie, whose evidence was accepted by the judge as that of a reliable witness. At that time no controversy arose.

As Lord Birkett stated in the Observer²—

"The case against Evans, at his trial on the facts as they were then known, was quite overwhelming. There was no failure in the administrative machinery of the criminal law. No human skill could have prevented the conviction, and no human judicial system, whatever its checks and safeguards, can ever provide complete security against the exceedingly rare and utterly exceptional case such as that of Evans".

Certain developments, however, took place after 3 years, which created doubt as to whether Evans was guilty or whether he was the only person guilty. In the spring of 1953, the police found the remains of human bodies at Rillington Place (i.e., at the same place). All the bodies had been strangled—some as long ago as 1943. Christie, a previous tenant of the house, was charged with murder. It was discovered that Christie, far from being the respectable citizen that he appeared, was in fact a homicidal strangler. The bodies of his wife and five other victims were found about the house. Christie readily confessed to his murdering them, and confessed also that he was the murderer of Mrs. Evans.

This discovery changed the whole nature of the probabilities of Evans' guilt. Previously it was believed that Mrs. Evans and their child were murdered and there did not seem to be anyone other than Evans who had any sort of the motive for murdering them. Now, a very material factor emerged,—that there was living in the house a homicidal maniac who took pleasure in strangling women (Mrs. Evans had been murdered in substantially the same way as that in which Christie murdered his victims).

When Christie's story came to light, there was a large outcry. The Home Secretary (Sir David Maxwell Fyfe) had to appoint Mr.

1. Since a person could be tried for only one murder, as the law then stood, the prosecution chose to get him tried on the charge of murdering the child.

2. Observer, London (15th January 1961).

Scott Henderson Q.C. to inquire into and report on the Evans case. Mr. Scott Henderson reported, that there had been no miscarriage of justice at the trial of Evans. He found that there was no doubt that Evans had killed his wife as well as his baby, and that Christie's confession to the murder of Mrs. Evans was untrue. The enquiry was held in private. The Home Secretary accepted his findings.

These findings were, however, fiercely attacked in the House of Commons at the time. Later, there was an impressive amount of hostile comment in books and pamphlets¹. Ultimately, another inquiry was held by Mr. Justice Brabin². (His findings are too lengthy to be summarised). He could not reach a definite finding of guilt; but he observed as follows at the end of the Report:—

“the probability is that both these men killed and that both killed by strangulation using a ligature”.

1. See Ludovic Kennedy's *Ten Rellington Place*, (1961).

2. “The Case of Timothy John Evans”, Report of an Inquiry by the Hon. Mr. Justice Brabin, Cmd. 3101 (1966). Published by Her Majesty's Stationery Office, London. Price 12 Shilling and 6 d.

CHAPTER VIII—POWERS OF A MINISTER AND MINISTERIAL RESPONSIBILITY

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CHAPTER VIII

Powers of a Minister and Ministerial Responsibility

8.1 A question of the powers and responsibility of a Minister in connection with offences committed or threatened to be committed has arisen in this inquiry thus :

8.2 It is alleged that on three occasions the Government of India and the Government of Bombay were informed of threats to Mahatma Gandhi's life, and of intention to murder him, (i) in July 1947 when Mr. G. V. Ketkar acting through Balukaka Kanitkar warned the Government of Bombay through Mr. B. G. Kher against Nathuram Godse, (ii) after the bomb was exploded at Birla House, Madanlal, who exploded it, was arrested and made a statement to the Delhi Police disclosing who his co-conspirators were, which information was conveyed to the Bombay Police, and (iii) when Prof. Jain, who had previous knowledge about the conspiracy to murder Mahatma Gandhi did, after the bomb was exploded by Madanlal, inform Mr. B. G. Kher and then Mr. Morarji Desai about the conspiracy to murder, in which V. D. Savarkar, the well-known Hindu Mahasabha leader and V. R. Karkare were named.

8.3 It is further alleged that the police acted inefficiently, ineptly and unskillfully and the Home Minister of Bombay was complacent and even if he did convey the information given by Prof. Jain to the Police, he was bound and required to supervise the investigation and keep a watchful eye on it and that the ineptitude of the police in the matter of investigation made the Minister responsible, and further that the Minister should have ordered the arrest of the persons named by Madanlal and by Prof. Jain and seen to it that they were arrested and their associates were quickly found and arrested. And if the police bungled, the responsibility is of the Minister, at least the failure of the police falls under what is called the "ministerial responsibility to the Legislature". It may be observed that the story in court as also the evidence before this Commission is that Mr. Morarji Desai did order the arrest of V. R. Karkare and also ordered the house of Savarkar to be watched; but the question remains, did he have the power to order arrest of any person or to get a watch put on his house.

8.4 Taking the first allegation, i.e., Ketkar's giving the information through Balukaka Kanitkar, at this stage the Commission would like to remark that it has dealt with the matter in a separate Chapter under the first term of reference under which the decision of this matter properly falls. That Chapter has been put at a later place in this report. But it can be said here that the Commission, for reasons there stated, has not accepted Mr. Ketkar's claim that he got any letter sent by Balukaka Kanitkar. The Commission has, however, accepted the story that Balukaka Kanitkar did in July 1947 give a warning to Mr. B. G. Kher by a registered letter but

that warning was in regard to all the top ranking Congress leaders and Mahatma Gandhi was not particularised nor were any names given. As said above, this will be fully dealt with under Terms of Reference (a).

8.5 In regard to the conspiracy to murder Mahatma Gandhi, the only persons who had any previous knowledge (i.e. prior to the bomb incident) about it were Prof. Jain, witness No. 27, and his two friends, Mr. Angad Singh, witness No. 28, and Prof. Yagnik, witness No. 29, with whom he had shared the information given to him by Madanlal. Unfortunately, Prof. Jain did not inform any police official or a Magistrate as he was, under section 144 of the Cr. P.C. bound to do. But after the bomb was thrown he did inform first Mr. B. G. Kher, the Premier of Bombay, and then Mr. Morarji Desai, the Home Minister, to whom he was introduced by Mr. Kher. What information Prof. Jain gave and what Mr. Morarji Desai did with this information has been dealt with in the chapter dealing with "Prior Knowledge in Bombay" and in the chapter dealing with "Investigation at Bombay", and those chapters also have been put later. The Commission has found that the information was with "commendable promptitude" passed on to Mr. Nagarvala.

8.6 In regard to the information given by Madanlal and the allegation that this information was conveyed to Bombay Police, the discussion is in the chapters "Investigation at Delhi", "Exhibit 5-A" and "Investigation in Bombay". These questions of fact are fully discussed in these chapters and need not be discussed here, except to remark that the court which tried the Murder case accepted the statement of Mr. Morarji Desai that he did convey the information to Mr. Nagarvala, the Deputy Commissioner of Police, Bombay. Before the Commission also, the same evidence was led and the Commission has also come to the same conclusion that the information was conveyed to Mr. Nagarvala and, thereafter, he started his investigation, although Counsel for the State of Maharashtra has argued that it was not an investigation but only an inquiry to work out the information given by Mr. Morarji Desai and that matter also will be dealt with later at the relevant places. It may here be remarked that there is no statutory authority for merely this "working out theory"; but the police could, in cases falling within these chapters, act under Chapters XIII and XIV of the Code of Criminal Procedure and even Chapters IV and V of the Bombay City Police Act. But Mr. Kotwal contends that the scope and authority of the latter Act is confined to the city of Bombay and is, therefore, limited.

8.7 The question which arises at this stage is, what were the powers of the Ministers in regard to the information given to them and what was their duty in regard to it, or what was the responsibility of a minister if anything went wrong. In other words, what has to be inquired into is what can and should a minister do if information of a threat to the life of an important citizen like Mahatma Gandhi is given to him, and what is his responsibility if the action taken thereupon is either inappropriate or insufficient, or is not proper and is deficient or futile.

8.8 The Commission will first take up the question of the powers and authority of a minister in regard to matters which fall under the law relating to commission of offences and the action which is required to be taken thereupon.

8.9 In the Government of India Act of 1935 and even in the Indian Constitution of 1950, it has been provided that the executive authority of the Governor of a Province does not extend to any existing Indian law, and both the Indian Penal Code and the Code of Criminal Procedure were existing Indian laws, both when the Government of India Act was enacted and the Indian Constitution was adopted. The provision in the Government of India Act is in section 49 and in the Constitution of India in Art. 154 which are as follows:—

"49. (1) The executive authority of a Province shall be exercised on behalf of His Majesty by the Governor, either directly or through officers subordinate to him, but nothing in this section shall prevent the Federal or the Provincial Legislature from conferring functions upon subordinate authorities, or be deemed to transfer to the Governor any functions conferred by any existing Indian law on any court, judge, or officer or any local or other authority.

(2) Subject to the provisions of this Act, the executive authority of each Province extends to the matters with respect to which the Legislature of the Province has power to make laws."

"154. (1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

"(2) Nothing in this article shall—

(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor."

8.10 Similar powers of the Union are dealt with under Art. 53 of the Constitution.

8.11 These two provisions—it was the Government of India Act which applied at the relevant time—make it clear that a function relating to any matter which falls within the ambit of the Criminal Procedure Code or the Indian Penal Code are not transferred to Government. In other words, the Executive authority of the Government does not extend to functions contained in these two statutes. The alleged information before the bomb was thrown was one of threat to cause death and, therefore, would fall under section 506 of the Indian Penal Code which is a non-cognizable offence, but still its investigation is a matter, which is covered by the Code of Criminal Procedure and, therefore, solely within the power of the

police to deal with. If and when any Minister gets information about a threat or danger to the life of any person, he must inform the proper police authorities which will deal with the matter under appropriate provisions of the Law—Chapter XIII Preventive Action of the Police, Sections 149 to 151 of the Code, and Chapter XIV of the Criminal Procedure Code which deals with information to the Police and their Powers to Investigate.

8.12 Similarly in the case of the Bombay City Police, the matter was governed by the City of Bombay Police Act, 1902 which was also an existing law, and therefore, threats to murder would fall under Chapter IV of that Act, and if any investigation had to be done it would be under Chapter V. And any information coming to the Minister in regard to the threat to the life of a person like Mahatma Gandhi would have to be reported to the police in the manner provided in these various Acts. The Minister himself has neither the power nor the authority to pass any orders or to take any action in regard to such matters.

8.13 Similarly, in the case of information given by Prof. Jain to the late Mr. B. G. Kher and to Mr. Morarji Desai, the then Home Minister, the law is the same. All that the Minister could do was to pass on that information to a proper police officer, may be a person in whom he had confidence to be able to take proper action in regard to the information.

8.14 In this connection, Commission would refer to the opinion of two witnesses, one Mr. K. M. Munshi, witness No. 82, an eminent constitutional lawyer, an experienced Administrator and a well-known politician who has held various offices as Minister and Governor both in the Centre as well as in the States; the other, Mr. R. N. Banerjee, I.C.S., witness No. 19, who was Home Secretary to the Government of India at the time when the bomb was thrown, and later when the Mahatma was shot dead, and who had a vast administrative experience.

8.15 The opinion of Mr. K. M. Munshi may be quoted *in verbatim*:

"If, as a Minister, I get a report about somebody's life being in danger, the first thing that I would do would be to pass on the report to the Inspector-General of Police to look into its trustworthiness and ask him to take such steps as the law allows. If, on enquiry, he finds that the report is baseless, he can do nothing. If he finds that there is something in the report, then he can take action and keep the Minister informed.

If the Minister ordered arrests of persons on reports, that would be the end of law and order in the country. I would not do it. The Home Minister can only put his police in charge of the case; he cannot do anything more except to use the instrument of the police machinery to verify and take action."

8.16 Mr. R. N. Banerjee's opinion is as follows:—

"If any information had been given as it is now stated that it was given by Prof. Jain, then proper directions should have been given to the Secretary or to the Head of the police and he should have been asked to submit his report within a short but specified time and the progress of the investigation should have been watched and more interest taken as to what the police was doing.

As far as I can see, Bombay Government had great faith in the ability of Mr. Nagarvala. If the Home Minister had given him instructions then it would be right in saying that he had done what he should have done i.e. in leaving the matter in the competent hands of an officer of the ability of Mr. Nagarvala".

8.17 He was asked by the Commission if he did not think it necessary to call up the police officers to whom the information had been given in Madanlal's case and ask them what they were doing, his answer was:

"Those were the days when the Ministers had just come. To the best of my recollection I must have prepared a note suggesting close attention to the matter. I have not the record with me and therefore I cannot say what exactly I wrote. But it is correct that we relied upon the efficiency of the police which proved wrong".

8.18 Mr. Banerjee also stated that after the meeting of 31st January, 1948 when Sardar Patel was in anguish, he told the Sardar that it was no fault of his. He could not have done anything more than to have asked the police to be vigilant.

8.19 Mr. Banerjee further said:

"The offices of the Inspector-General of Police and the Director of Intelligence Bureau were held by specially selected members of the Indian Police.... I should, therefore, say that ordinarily it cannot be said to be part of the functions of the Secretariat or the Police Administration, it being understood all the time that the Head of the Police and the Intelligence Bureau with the help of his departmental aides should come to interim findings about the progress of an investigation and keep Government informed of them."

8.20 In reply to another question as to why sufficient interest was not taken in finding out the progress of the Bomb Case as it was done after the Murder Case, Mr. Banerjee replied:

"My assessment of that is that they did not take the case so seriously then and they trusted the high police officials who were in-charge of the investigation and they were under the impression that such high police officials would do their duty".

8.21 Mr. Morarji Desai was not prepared to accept the English constitutional practice in regard to commencing of or withdrawing from prosecutions as in that country the responsibility is exclusively of the Attorney General. The question as to whether that constitutional practice is accepted in India does not really arise here because there is no question of starting a prosecution or withdrawing from a prosecution. The question before the Commission is the power of the Minister to arrest or to order the arrest of an alleged offender. The Commission would like to add that the position taken by Mr. Morarji Desai is not in all cases untenable because under the Indian law the Government has been given power of giving or not giving sanctions to prosecute under various statutes and the discretion is entirely of the Government and the Attorney General does not come in except where it is specifically so stated. Of course, under the Criminal Procedure Code also there are certain powers which are vested in the Advocate General e.g. of entering *Nolle Prosequi* which is entirely his discretion and similarly the public prosecutor had under section 494, Cr. P.C. the power to apply to the court for withdrawal, but the final power of allowing the withdrawal in the latter case is in the court. It has not yet been decided in India whether the power the public prosecutor exercises is his own discretion or he acts under the direction of the Government or the District Magistrate as the case may be. In actual practice as far as the Commission knows, no Public Prosecutor would exercise this power except with the approval at least of the District Magistrate.

8.22 Mr. Kotwal addressed an elaborate argument on the powers of the Minister as to arrests and the ordering of the arrests of persons guilty of offences under the Indian Penal Code. He referred to the History of English Law by Sir Williams Holdsworth¹.

8.23 In Vol. 14¹, the duties of the Home Secretary are set out at page 113. It is stated that the Home Secretary took over what may be called the domestic duties of the Secretary of States—the duty of advising on petitions to the King as to the exercise....of the prerogative of mercy.

8.24 At one time the Home Secretary in England claimed the right to issue warrants for arrest and for search. This power the Courts in England held, the Home Secretary did not have. The following passage in Holdsworth's History of English Law² shows that the Home Secretary has no power of issuing warrants for the arrest of persons or search of persons:—

"The four principal cases which arose out of the publication of No. 45 of the *North Briton* were *Wilkes v. Wood*, heard in Michaelmas Term 1763; *Leach v. Money, Watson, and Blackmore*, heard in Easter Term 1765; *Entick v. Carrington*, heard in Michaelmas Term 1765; and *Wilkes v. Lord Halifax*, heard in Michaelmas Term 1769. In the case of *Wilkes v. Wood*, Wilkes brought an action of trespass in the court of Common Pleas against Wood, a secretary of

Lord Halifax, the secretary of state, to recover damages for entering his house and seizing his papers. The defendant justified under a warrant issued by the secretary of state to arrest the authors, printers, and publishers of No. 45 of the *North Briton*. The court of Common Pleas directed the jury that such a warrant was illegal, and Wilkes was awarded £1,000 damages. In the case of *Leach v. Money, Watson, and Blackmore*, the plaintiff brought an action of trespass in the court of Common Pleas against the three defendants, who were King's messengers, for breaking and entering his house and imprisoning him. The defendants pleaded as their justification a warrant issued by the secretary of state to search for and arrest the authors, printers, and publishers of No. 45 of the *North Briton*. The jury found for the plaintiff and awarded him £400 damages. The case was brought before the Court of King's Bench on a bill of exceptions."

8.25 Lord Camden in *Entick v. Carrington*¹ held as long ago as 1765—

"It settled that the only power to arrest which he possessed was a power, a privy councillor, to arrest in cases of high treason. In all other cases he must act through the instrumentality of judicial officers, who were obliged to observe the formalities which the common law, enacted and unenacted, had devised to protect the liberty of the subject."

Effect of this judgment is comparable to the effect of the *Habeas Corpus* Act of 1679 "because, in all cases, except the case of high treason, it prevented arrests from being made at the discretion of the executive, and so gave abundant security that, if an arrest was made, it could only be made by regular judicial officers acting in accordance with known rules of law." It shows therefore that in England the law is well settled that if an arrest is to be made or any search warrant is to be issued it can be done by judicial authorities according to rules of law, the Secretary of State has no such power.

8.26 In India the matter is simple because the power of search, arrest etc. have been given a statutory shape and are embodied in the Code of Criminal Procedure and in the case of City of Bombay in 1948 they were incorporated in what was called the City of Bombay Police Act where the powers of arrest and search were almost the same as they are in the case of Criminal Procedure Code. In section 54 of the Criminal Procedure Code, powers of arrest which are vested in the Police are set out in nine clauses and the powers of arrest in the City of Bombay Police Act are the same excepting clause ninthly of Section 54 of the Criminal Procedure Code which

1. History of English Law by Sir Williams Holdsworth, Vol. 10 and Vol. 14.

2. History of English Law by Sir Williams Holdsworth, Vol. 10.

1. *Entick v. Carrington*, (1765) 19 S.T. 102.

does not find place in the latter Act. The power of arrest in Section 54 is as follows:—

"54. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest—
first, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned;

[Clauses secondly to eighthly are not relevant to the inquiry.]

"ninthly, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) This section applies also to the police in the town of Calcutta."

But it may be added that it did not apply to the City of Bombay.

8.27 As this power of arrest is one of the statutory powers vested in the Police and gives a discretion to the police to arrest in accordance with the power thereby conferred they were expressly excluded from the executive functions of the Provincial Governments of the pre-Constitution days and they are now excluded from the executive functions of the State Government.

8.28 As a matter of fact in its replies to the interrogative questionnaire issued to the Government of India this position has been accepted that for making an arrest a Minister will have to communicate to the police. The relevant questions are Questions 10—12 and the answers thereto, but we may quote here question No. 11 and its answer by the Government of India:—

"Q. 11. What is the constitutional position of the Minister of Home Affairs to whom information is given about the commission of a serious offence like murder and of a person like Mahatma Gandhi or a conspiracy to commit the same or of the danger of that being done?

Ans. The Minister of Home Affairs would have such information communicated to the authorities concerned under the law, and ensure that necessary action is taken. In such important cases he would, in addition, write or get in personal touch with the Chief Minister of the concerned State of the Administrator of the concerned Union Territory if the relevant intelligence relates to any person residing within that State or Union Territory."

8.29 Question 12 is also relevant and therefore the question and answer are also quoted:—

"Q. 12. Are there any rules of business framed under article 77 or the corresponding section 17 of the Government of India Act, 1935 which deal with this matter, i.e., of the responsibility of the Home Minister or Ministry and their powers in regard to matters like conspiracies to assassinate prominent persons like, say, Mahatma Gandhi or in regard to danger to their lives?

Ans. In the Rules of Business framed under section 17 of the Government of India Act, 1935, there is no specific mention about the responsibility of Home Minister or Ministry and their powers in regard to matters like conspiracies to assassinate prominent persons like Gandhiji. Attention is, however, invited to para. 5 of the rules, a copy of which is attached (Annexure—II)."

The rules are given in Annexure to the answer to the questionnaire and paragraph 5 therein being relevant is quoted:—

"5. Cases of major importance.—(1) Any case which is, in the opinion of the Member in charge of the Department to which the subject belongs, of major importance, shall be submitted, with the orders proposed by that Member, to the Governor-General for opinion.

"(2) When a resolution has been passed by a chamber of the Legislature and has been forwarded to the Department concerned under rule 24 of the Indian Legislative Rules it shall be submitted as soon as possible by the Secretary in the Department with the orders proposed by the Member in charge of that Department to the Governor General.

(3) [Deleted *vide* Ministry of Home Affairs O.M. No. 18/6/46—Public]."

8.30 The officers of the Bombay Police have rightly understood that the power to arrest is in their discretion. This is contained in the statement of Mr. J. D. Nagarkar. In answer to a question as to the power of a Minister to order arrest Mr. Nagarkar said as follows:—

"Q. What power has the Minister to order the arrest of any one?

Ans. If a Minister gave me an order for arresting any particular person and I on considering the matter thought that it was a reasonable order under the circumstances I would unhesitatingly carry it out."

And he has given an instance of how he acted when one of the Ministers ordered him to make an arrest; Mr. Nagarkar stated:—

"The Minister for Labour in those days was Mr. Nanda who asked me to arrest certain labour leaders. I was not

agreeable and therefore I approached the Home Minister and told him that I was not prepared to arrest them, and therefore they were not arrested because the Home Minister backed me."

8.31 The question of the power of Minister to order an arrest has assumed importance because one of the questions raised is what action if any, was taken by the Government of Bombay and in particular by late Mr. Bal Gangadhar Kher and by the Government of India, on the basis of information received by them as to the existence of a conspiracy for the murder of Mahatma Gandhi or as to a plan or intention of certain person or persons to murder him or of threat or danger to his life.

8.32. What action should the Minister have taken? Could he arrest or order the arrest of these persons if he knew their names or order an inquiry to be conducted by the police if their names were not known?

8.33 It is in order to decide this issue that the Commission has had to go into the Constitution Act, the Indian Constitution, the Criminal Procedure Code dealing with the statutory powers of the Police and the history of the powers of the Secretary of State to make arrest as given in the History of English Law. Under section 3 of the Police Act of 1861 the Superintendence over the Police is vested in and shall be exercised by the State Government and before the Constitution, it was by the Provincial Government. The distribution of duties according to the Rules of Business is not clear from the answers of the Government of India, but there is no specific evidence or rule to show that the Police in Bombay or Delhi was not under the Executive Control of the respective Home Ministers of the two Governments. As a matter of fact throughout the course of this inquiry, it was understood to be so and the inquiry has proceeded on that basis. The proceedings in the Constituent Assembly and in the Bombay Legislative Assembly in 1948 and 1949 respectively also support this view.

8.34 In the opinion of the Commission although a Home Minister is in charge of the Police and Police administration and answerable to Parliament about it, still he has no power to direct the police how they should exercise their statutory powers, duties or discretion. Both under the Criminal Procedure Code and under the Bombay City Police Act the statutory duty is of the Police both to prevent crime and bring criminals to justice. Therefore the minister can and could only pass on the information of the commission of an offence to the police to investigate, so also in regard to the threats of the commission of an offence. If the Minister were to give orders about arrests, to arrest or not to arrest, that would be an end of the rule of law as was said by Mr. K. M. Munshi. This view of the law has received recognition by our Courts in cases where a distinction is drawn between administrative control of Government and its powers of interfering with statutory powers of various statutory authorities.

8.35 The powers of the Government respecting the exercise of powers by the Police under the Criminal Procedure Code was decided by the Calcutta High Court in *Jay Engineering Works Ltd. v. State of West Bengal*¹. There the validity of the circulars issued by the West Bengal Government instructing the Police not to interfere with *gheraoes* and strikes of workers without direction of the Labour Minister was considered, and the law was thus stated by the Learned Chief Justice at page 493.

"The Labour Minister has no power or authority under the law to give directions to the Police before taking action, where such an offence has been committed or is said to have been committed. The action that the Police or Magistrate shall take under such circumstances is provided in the Criminal Procedure Code and the relative Police Acts. By executive fiat, such procedure cannot be altered or supplemented or varied."

"The precise moment when the Police or the Magistracy should act, the way they should act, the procedure they should follow when an offence has been committed or is said to have been committed or is apprehended, is laid down by law. The executive Government, in the absence of a legal provision has no jurisdiction to add to or detract from the same or direct any variation thereof or inhibit or delay the implementation of the same, in accordance with law. Where there is any attempt to do so, the Court will strike it down."

8.36 Mr. Justice B. C. Mitra put the position thus at page 587:

"The authority and the jurisdiction of the State Government to issue administrative directives are limited, firstly, by the Constitution, and secondly, by the laws of the land. There is no law which authorises the State Government to issue directives to officers in charge of maintenance of law and order, not to enforce the law of the land nor to direct them to enforce the law of the land upon certain conditions being fulfilled and complied with.... In my view, the Council of Ministers of the State of West Bengal in issuing the directives in the impugned circulars had clearly violated article 256 of the Constitution and it must, therefore, be held that they had no jurisdiction or authority to issue the two impugned circulars, which must, therefore, be struck down."

8.37 It will thus be seen that there is a distinction between the constitutional responsibility of the Minister for the exercise of executive power in respect of public order, police and enforcement of Criminal law on the one hand and statutory duties of the Police and Magistrate to exercise powers vested in them by the Police Acts and Code of Criminal Procedure. It is the constitutional duty

1. *Jay Engineering Works Ltd. v. State of West Bengal*, 72 C. W. N. 441.

of the Minister, as head of the Department in charge of the police, who are instruments of maintenance of public order and enforcement of criminal law to ensure that the Police discharge their functions and exercise their powers properly and diligently. But beyond that the Minister cannot go and issue specific instructions as to the manner of exercise of their statutory powers. That would amount to interference. The distinction between administrative supervision ends and direct interference begins with statutory powers, a well recognised principle of Rule of Law¹.

8.38 In the *State of Bombay v. Mulji Jetha*², a distinction was drawn between Government and a Collector. The question in that case was whether the powers which under the Bombay Land Revenue Act the Government could exercise could also be exercised by the Collector and it was held that Collector was not the same thing as Government; no doubt Government appointed a Collector under section 8 of that Act but the Collector could exercise all the powers and discharge all the duties of a Collector under the Act. This judgment Mr. Kotwal quoted to support his contention that when a power is given to a Police Officer to discharge that power, it cannot be discharged by Government because the two are distinct entities and when powers are conferred on one authority that authority and that authority alone can exercise that power and nobody else.

8.39 The Supreme Court in the *Commissioner of Police, Bombay v. Gordhandas Bhanji*³, have held in a case of cinema where under the licensing rules the discretion was of the Commissioner of Police to give or refuse to give or to rescind a license and he did give a license, that the subsequent delicensing done under the orders of the Government was not within the law as it was not a discretion exercised by the Commissioner of Police who alone had the power of giving, refusing or withdrawing a license.

8.40 Sir Patrick Hastings' case emphasises the Constitutional position regarding powers of the Minister with respect to arrests, investigation and withdrawal of cases. In that case Sir Patrick Hastings who was Attorney General in the Labour Government was accused of having exercised the power of withdrawal of prosecution of the editor of the Workers Weekly under the political influence of his Cabinet colleagues. The matter was debated in the House of Commons⁴. The position is summarised by Lord Mac Dermott as follows⁵:—

“With some, relatively minor exceptions the executive must leave the initiation of criminal proceedings by the Crown

to the Attorney-General and those for whom he is responsible. The days are gone when a subservient Attorney could be told whom to lay by the heels or whom to spare. He must now maintain a complete independence in this difficult and sometimes delicate sphere, and if he fails to do so, the remedy lies in his dismissal or that of the Administration.”

8.41 The same principle is stated by Sir Hartley (now Lord) Shawcross, ex Attorney-General thus¹:—

“It remains the clearest rule that in the discharge of his legal and discretionary duties the Attorney-General is completely divorced from party political considerations and from any kind of political control.”

8.42 This reiterates the principle that the statutory powers of initiating or withdrawing prosecution, making arrest, starting investigation, etc. must be exercised by the authorities according to the procedure and principles laid down by statute and the Ministers or any other outside authority cannot interfere with the exercise and discretions of statutory authorities.

8.43 It may be added that although there is no statutory responsibility of the Minister in regard to matters of arrests and prevention of offences and of bringing offenders to justice, yet the question of responsibility of the Minister to Parliament or what is called ministerial responsibility to Parliament for the acts of the Civil Servants may arise in certain cases. It would indeed be absurd to suggest that if in the exercise of their powers of investigation or protection of citizens' lives the Police goes wrong or proceeds on a wrong track or bungles and thereby there is a failure on their part, the Minister would in every case be held responsible as the constitutional and superintending head of the Department.

8.44 But when it comes to cases of gross negligence or general failure or neglect to perform its statutory functions by the police in preventing the commission of offences or of bringing offenders to justice or there is a general failure to maintain law and order or in the matter of protection of a man like Mahatma Gandhi it may be different and should, in the opinion of the Commission, fall under the constitutional ministerial responsibility, although it is a matter entirely for Parliament to decide. There are thousands of cases of violence in the country every year. Hundreds of murders are committed, some of them may be preventable but in everyone of these cases where the Police either fails to do its duty diligently or does it badly the constitutional head of the Department would not be held responsible in Parliament. But then there are cases and cases and the protection of Mahatma Gandhi or a proper investigation into the attempt to murder him would be an exception to the ordinary rule.

1. See *Rajagopal Naidu v. State Transport Tribunal*, A.I.R. 1964 S.C. 1573.

2. *State of Bombay v. Mulji Jetha*, A.I.R. 1955 S.C. 325.

3. *Commissioner of Police, Bombay v. Gordhandas Bhanji*, A.I.R. 1952 S.C. 16.

4. *Vide* 1924 Parliamentary Debates, House of Commons, pages 511, 582—694.

5. Protection from power, pp. 31-32.

8.45 On this question it will be fruitful to refer to the English practice. In an English book "Government and Parliament—A Survey from the Inside" by the Rt. Hon'ble Herbert Morrison, who was the Home Secretary and Minister of Home Security in the Churchill War Cabinet, it is said¹:

"Occasionally, however, something may go wrong or the Minister may be badly served. If a mistake is made in a Government Department the Minister is responsible even if he knew nothing about it until, for example, a letter of complaint is received from an M.P., or there is criticism in the Press, or a Question is put down for answer in the House; even if he has no real personal responsibility whatever, the Minister is still held responsible. He will no doubt criticize whoever is responsible in the Department in mild terms if it is a small mistake and in strong terms if it is a bad one, but publicly he must accept responsibility as if the act were his own. It is, however, legitimate for him to explain that something went wrong in the Department, that he accepts responsibility and apologizes for it, and that he has taken steps to see that such a thing will not happen again."

"All this may appear harsh on a Minister, but it is right somebody must be held responsible to the Parliament and the public. It has to be the Minister, for it is he, neither the Parliament nor the public, who has official control over his Civil Servants. One of the fundamentals of the English system of Government is that some Minister of the Crown is responsible to the Parliament and through the Parliament to the public for every act of the executive. This is the corner stone of the English system of Parliamentary Government. The proper answer of the Minister is that if the House wants somebody's head it must be his head as the responsible Minister and it must leave him to deal with the officer concerned in the department."

8.46 In 1917, Mr. Austen Chamberlain resigned because he considered himself to be ministerially responsible, as Secretary of the State, for the inefficiency of the Government of India disclosed by the Royal Commission on Mesopotamia. In that case, the Secretary of State had proceeded on the advice of his military experts—the Generals etc. But their advice turned out to be wrong with disastrous results².

1. "Government and Parliament—A Survey from the Inside" by Rt. Hon'ble Herbert Morrison, 3rd edn., page 332.

2. Sir Ivor Jennings Cabinet Government, 3rd Edn., page 498.

8.47 Wade and Phillips in their CONSTITUTIONAL LAW have stated the same principle in following terms¹:—

"While collective responsibility ensures that the Queen's Government presents a united front to Parliament, individual responsibility in its political meaning ensures that for every act or neglect of his department a Minister must answer.... For what an unnamed official does, or does not do, his Minister alone must answer in Parliament and the official, who cannot be heard in his own defence, is therefore protected from attack. This positive liability of a Minister is essential to the performance by Parliament, and more particularly by the House of Commons, of its role of critic of the Executive. No Minister can shield himself by blaming his official."

8.48 In this connection reference may be made to what is known as the 'Crichel Down Affairs' where the Minister, Sir Thomas Dugdale, had to resign for the mistakes and negligence of departmental officers in dealing with acquisition of land and its release in favour of another person.

8.49 In that case there was an adjournment debate in the course of which the then Home Secretary Sir David Maxwell-Fyfe, later Lord Kilmuir, L. C. stated certain views of constitutional relationship between Ministers and civil servants. The four positions were:—

- (i) In the case where there is an explicit order by a Minister, the Minister must protect the civil servant who has carried out his order.
- (ii) Equally, where the civil servant acts properly in accordance with the policy laid down by the Minister, the Minister must protect and defend him.

To put it in different language—

- (i) where a civil servant carries out explicit orders by a Minister;
- (ii) where he acts properly in accordance with the policy laid down by the Minister;

the Minister must protect the civil servant. In other words the responsibility is directly of the Minister.

- (iii) Where an official makes a mistake or causes some delay but not on an important issue of policy and not where a claim to individual rights is seriously involved.

8.50 It is the fourth category which is of importance and is therefore, quoted here *in extenso*:—

"...where action has been taken by a civil servant of which the Minister disapproves and has no prior knowledge, and the conduct of the official is reprehensible, then there is no obligation on the part of the Minister to endorse what

he believes to be wrong, or to defend what are clearly shown to be errors of his officers. The Minister is not bound to approve of action of which he did not know, or of which he disapproves. But, of course, he remains constitutionally responsible to Parliament for the fact that something has gone wrong, and he alone can tell Parliament what has occurred and render an account of his stewardship¹."

8.51 The most essential characteristic of the Civil Service is the responsibility of the Minister for every act done in his department. In practice he can hardly avoid saying that the mistake was that of a subordinate².

8.52 In this connection it would be legitimate to say that ordinarily a Minister is a layman and may have little or no knowledge of the intricacies of the Criminal Procedure and of the investigational powers of the Police and therefore it will be unfair to expect him to be able to direct the Police as to how investigation should be done or protection given. He must act on the advice of the Police experts. If their advice leads to disaster the constitutional responsibility may be there, the degree of which must depend upon the circumstances of each case. The position of lay ministers has been discussed by Sir Ivor Jennings in "Cabinet Government"³ and this is what he says:—

"The result is that a lay minister, a 'transient bird of passage', takes decisions on important questions of policy, subject to Cabinet control, upon which experts may be divided. If he has had experience as an official it is by the accident of his career and it will have been almost certainly, in a subordinate capacity. Thus, Mr. Sidney Webb, who had been a second division clerk in the Colonial Office, became in course of time Secretary of State for the Colonies. Sir Bolton Eyres-Monsell, who had been a comparatively junior naval officer, became First Lord of the Admiralty. Such experience is more likely to be a handicap than a benefit. It is somewhat difficult to imagine a former lieutenant-commander politely telling a First Sea Lord that he is talking nonsense."

8.53 The Commission has set out the instances which are contained in the books on English Constitutional practice. In the matter of Police investigations the discretion is solely of the Police as to what, if any, action they should take. This has been discussed above and is supported by section 49 of the Government of India Act, 1935 and by the various provisions of the Code of Criminal Procedure and of the City of Bombay Police Act which have been set out above.

1. Herbert Morrison : "Government & Parliament", 3rd Edn. Pp. 333-334.
2. Sir Ivor Jennings: "Cabinet Government" (3rd Edn.), Page 499.
3. Sir Ivor Jennings: "Cabinet Government" (3rd Edn.) Page 113.

8.54 Besides, Indian parliamentary institutions are comparatively young and occasion on which the responsibility of a Minister in regard to the acts of civil servants arose are necessarily only a few. As far as the Commission is aware, there were two occasions on which a Minister accepting his responsibility resigned, one was in the case of the late Sir Shanmukham Chetty, then Minister of Finance, when there was some trouble in regard to the premature leaking out of the Budget proposals; and the second was in the case of the late Mr. Lal Bahadur Shastri, Minister for Railways who resigned because there were serious railway accidents. But even though it may be a repetition it is proper to observe that in none of these cases was the question one where the matter was outside the executive functions of the Government as laid down in section 49 of the Constitution Act of 1935 and the action taken or not taken was within the statutory discretion of the erring civil servants. Nor was the matter complicated by delay and finding of the High Court exonerating the Civil Servant. In deciding the question of ministerial responsibility, the effect of section 49 of the Constitution Act will have to be taken into consideration as also the effect of decisions of Courts where it has been held that the functions of the Courts and those of the Police in regard to investigation are quite separate and the Courts have no jurisdiction in the matters of investigation except where it is so provided in the Criminal Procedure Code.

8.55 To sum up, the position of a Minister in regard to prevention of commission of offences and the bringing of offenders to justice is this:

(i) Under the Constitution Act of 1935 the Criminal Statutes—the Code of Criminal Procedure and the Indian Penal Code being existing Laws were in 1948 not functions transferred to the Governor or the Ministry.

(ii) There is a distinction between administrative supervision and direct interference with the exercise of statutory powers of the police. And, therefore, whereas a Minister may have administrative control over the police, he has no power of interfering in the performance by them of their statutory duties of preventing of the commission of offences or of bringing the offenders to justice, the discretion is by statute vested in the Police.

(iii) If any information is received by a Minister as to the commission of an offence or of a threat of the commission of an offence, he cannot order any arrest or direct the police as to what action it should take or how it should exercise its discretion. He must give information to the Police, may be to any officer who has jurisdiction and also has the Minister's confidence; but still the action to be taken in any particular case will be within his (police officer's) discretion, with which the Minister has no power to interfere.

(iv) After a Minister has handed over the matter or conveyed the information which he possesses to a high ranking hand-picked police officer like the Inspector-General of Police, it is not his duty or within his power to scrutinise the mode and the manner of his investigation. Nor is it a part of the duties of the Minister to take part

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in the investigation. But according to Mr. Bannerjee, the Home Secretary, the police must keep the minister informed of what he is doing.

(v) The Minister has no responsibility if in any particular case the police bungles or is unsuccessful; but in cases of general ineptitude, inefficiency, want of skill or honesty, the Minister will be subject to what is called ministerial responsibility to Parliament in regard to acts of a Civil Servant. But the sole judge of this and of its extent is the Parliament.

(vi) It would be absurd if the Minister were to be responsible and answerable for every case of failure of the police to investigate properly or skilfully but in cases like that of Mahatma Gandhi if the police fails to show reasonable amount of diligence in investigation, or is lethargic and inefficient as Mr. R. N. Bannerjee has described the Delhi Police, or it fails due to stupidity or inefficiency to give proper protection, responsibility may arise, but the extent of liability will vary in each case.

(vii) The question of responsibility may vary under different Parliamentary practices and the matter is entirely for Parliament to decide. It is not a matter on which this Commission would like to give a categorical opinion.

(viii) In the present case the question of responsibility may become difficult to decide in view of the decision of the High Court exonerating the Police of any blame and the delay in holding this Inquiry.

(ix) Under the Constitution Act, 1935, functions performable by the police under the Criminal Procedure Code are not functions transferred to the Governor and, therefore, any question of ministerial responsibility will have to be considered along with the provisions of Section 49 of the Constitution Act.

CHAPTER IX

Panchgani Incident

9.1 In the *Poona Herald* dated October 2, 1966, there was a news item under the heading 'A STORY THAT WAS NEVER TOLD'—
THE DAY GODSE MADE HIS FIRST ATTEMPT TO ASSASSINATE MAHATMA GANDHI'

—A. David.

The question posed in this story is: Could Gandhiji's life be saved from the assassin's bullet? It was stated in that story that in July of the year 1944 at Panchgani where the Mahatma used to spend a couple of months every year an unsuccessful attempt was made on the life of Gandhiji. The story of this incident was related to the newspaper reporter Mr. David, by one Manishankar Purohit who has appeared before the Commission as witness No. 30. The central theme of the newspaper story is that one day in July 1944 during the Mahatma's prayer meeting at the Bhadra School in Panchgani, Nathuram Godse rushed towards him with an open knife from a distance of only a few yards away but the attempt failed because he was caught hold of by two rather strong persons, with certain amount of courage, of whom one was Manishankar Purohit and thus a tragedy was averted.

9.2 The Mahatma used to spend about 2 months at Panchgani every year and in 1944 also he went there after his release in May, 1944, because of the malarial attack and his doctor's advice. He was visited by a number of Congress leaders amongst whom were Rajaji, Dr. Jivraj Mehta, Mr. Bhulabhai Desai and others who, it is stated, all knew about the attack and about the atmosphere of violence amongst the Poona Hindu Mahasabhaites. Gandhiji used to hold his prayer meetings in the Bhadra School building where his speeches dealt with Indo-British relations and about approach to Mr. Jinnah.

9.3 The incident is described thus:

About 18 or 20 young men came in a special bus from Poona and settled down in Anand Bhavan Hindi (really Hindu) High School. They went round the town shouting anti-Gandhi slogans. When he heard about this, Gandhiji invited Godse to his meeting but Godse refused the invitation.

At about 5-30 p.m., the date is not given, when Gandhiji started his prayer meeting, a man wearing a Nehru shirt, pyjama and a jacket and bare-headed, appeared at the meeting. He approached from the door near Gandhiji shouting in Marathi "Down with Gandhi". He whipped out a large knife which he had concealed under his jacket and raced towards the dais where Gandhiji was

seated. Two rather strong young men—one of them was Manishankar Purohit—who does look quite stout and strong and must have been more so in 1944—jumped across “the way” and caught hold of him and stopped him from approaching the Mahatma. The assailant was Nathuram Godse. His other companions who were with him at the time fled from the place of the meeting.

9.4 Naturally this incident caused panic and consternation among the gathering. But Gandhiji was cool and calm and “chided” the people and told them that he would leave the place if they created “gadbad” (disturbance). The prayer meeting thereafter went on as usual but on returning to his place Gandhiji sent word to Godse asking him to come and stay with him for about eight days so that he could get an idea of his (Godse’s) views.

9.5 This murderous attempt caused sensation in Panchgani. Congress guards were strengthened at Dilkhush Bungalow where the Mahatma was staying and policemen in plain clothes were also posted for his security, but this was resented by the Mahatma who did not want any precaution for his life. Godse and his companions were arrested but on Mahatma’s “advice and insistence” they were all let off.

9.6 There is no evidence of this incident as given in the *Poona Herald* being reported in the Bombay Press. Only one newspaper report of the incident has been produced, that is in *The Times of India* of July 23, 1944, Ex. 51, where it was said that some R.S.S. men had tried to create trouble at Gandhiji’s prayer meeting, but there was no mention of the attempt on the Mahatma’s life. The report is this ::

“MR. GANDHI HECKLED

“The hostility of a militant section of the Hindu Community to Mr. Gandhi’s blessing of Mr. Rajagopalachari’s communal formula was reflected immediately after the termination of prayers on Saturday when the spokesman of a group of a dozen Hindu youths rose suddenly and asked Mr. Gandhi questions and expressed “resentment”.

“Mr. Gandhi in a low tone replied, but the Hindu youths were not satisfied. They waved black flags for five minutes outside the hall and then left. Mr. Gandhi remained calm and drove away to his residence. There were at least four armed police officials in “mufti” close to Mr. Gandhi, but they were unnoticed by the crowd, Mr. Gandhi and his close associates.

“The youth who asked the questions is understood to be a Poona journalist, named Mr. N. D. Apte, while his companions are also from Poona. They are said to belong to a fairly militant Hindu organisation. He asked Mr. Gandhi who was seated on the “dais” whether it was true as reported in the press, that he had approved of the communal-Pakistan formula.

Mr. Gandhi replied that that was so. The youth said that they were there to express their resentment against his blessing of the Pakistan scheme. Mr. Gandhi asked him whether he had any written statement to give him. The reply was that the opposition had already been voiced and that he and his friends had come personally to voice their protest. Mr. Gandhi remarked that it could hardly be the time or place for such a course.”

9.7 The place, as the *Poona Herald* story goes, became a great centre for the activities of Godse and his followers who camped regularly at Anand Bhavan and Sanjivan Vidyalaya. So much so that four days prior to the actual assassination of Mahatma Gandhi, Godse, Apte and others had hatched the whole diabolical plot at Panchgani from where they proceeded straight to Delhi. This in short is the story as was given in the *Poona Herald* published in the issue of October 2, 1966.

9.8 In support of the story, Mr. David has put in an affidavit, Ex. 124, in which he has stated that from the investigations made by him he came to the conclusion that there was a definite plot to kill Mahatma Gandhi as early as July 1944, and that the parties behind the plot were led by Nathuram Godse and that not only did the police know about the whole incident but actually arrested Nathuram Godse and his companions—though at the instance of Mahatma Gandhi, Godse and his associates were let off. He has then stated that he contacted Purohit and got the story from him. He also got corroboration of this story from some other citizens, who are not named in the affidavit, which generally supported the other things mentioned in *Poona Herald* story. But in his statement Mr. David has mentioned the names of Gadekar Baburao Ombale, President of Taluka Committee and Dr. Savant.

9.9 After this news item was published in the newspaper, the trustees of the educational institution—Sanjivan Vidyalaya—gave a lawyer’s notice to the *Poona Herald* and its editor and its publishers. It is dated October 7, 1966, and is marked Ex. 125. In the notice objection was taken to the statement made with regard to the incident that Nathuram Godse and his companions settled down in Anand Bhavan High School, that there was no such building belonging to the trustees and that in fact various Congress leaders like B. G. Kher, Jivraj Mehta, Dr. Sushila Nayar and her brother Pyarelal were the guests at the school and that the whole story was false and defamatory. It was admitted that the school building was burnt down after the assassination of Mahatma Gandhi because of the erroneous belief that Nathuram Godse and his friends had stayed there. The notice called upon the newspaper to make the necessary correction.

9.10 Gopal Godse, Nathuram’s brother and a co-accused in the murder conspiracy, issued a disclaimer published in the *Poona Herald* of October 9, 1966, Ex. 127, wherein he denied that Nathuram Godse ever went to Panchgani during the period mentioned in the newspaper report or made any attempt on the life of Mahatma Gandhi. He also said that the true story was contained in his articles in the

Painjan, a Marathi weekly. Ex. 128 is the clarification issued in the *Poona Herald* of October 23, 1966, on the basis of Ex. 125 wherein the Lawyer's notice issued to the *Poona Herald* is published.

9.11 Gopal Godse appeared as witness No. 33 before the Commission and supported his story given in the *Painjan*. He stated that Nathuram Godse did not go to Panchgani and the report in the *Poona Herald* as to the incident was incorrect. It was Apte and party who went to demonstrate against the C.R. formula.

9.12 In support of the story as given out by the *Poona Herald*, Manishankar Purohit has appeared before the Commission as witness No. 30, and also Mr. Abel David, the editor, witness No. 70. Purohit is the proprietor of a lodging house called the "Surti Lodge". He deposed that the Panchgani incident, with which we are concerned, happened in July 1947 and not 1944. When his attention was drawn to the discrepancy in the dates, his answer was "the incident I am going to depose about was in the month of July 1947". Continuing he said that there were about 400 to 500 people at the prayer meeting. After the meeting, Mahatma Gandhi asked for subscription to the Harijan Fund. At that time, about 20 persons with Nathuram Godse came to Panchgani from Poona by a bus. The leader of the group was a man called Thate and Godse was also amongst them. They got up in the meeting and started shouting. They protested against the division of the country shouting "Gandhi Murdabad". Amongst those present at the time were Dr. Jivraj Mehta, Dr. Sushila Nayar, Amrit Kaur, Pyarelal and Dr. Dinshaw Mehta. The crowd with Godse started moving forward with black flags. The volunteers tried to prevent their going further and Godse and others were surrounded, and were taken to one side and from the pocket of Nathuram Godse a knife was found on search. As a matter of fact, the police arrived after the knife was taken out from the pocket of Godse. The police was told about this when it arrived. The police took charge of Nathuram and his companions and took them to the police station but the witness did not go with them. He thereafter fell ill and was taken to a hospital. He further stated that some people of the "Poona Herald" came to see him in 1966 and he (Purohit) insisted that he gave the date as 1947 and that no incident took place in 1944. When the *Poona Herald* news was read out to the witness, he stated that Nathuram Godse did not go to Panchgani in 1944 but Thate did. The date mentioned was not correct in the story published in the *Poona Herald*. As far as he was concerned, the date was definite. He also denied that Nathuram Godse took out a knife and wanted to attack Mahatma Gandhi and that he got hold of them. He repeated that the correct story was what he had stated before the Commission. On that occasion, Mahatma Gandhi did not ask Godse to come and stay with him. He further stated that Gandhiji was not staying in Dilkhush Bungalow in 1947 but in Eden House. In 1944, he was in Dilkhush Bungalow.

9.13 In cross-examination by Mr. Chawla, Counsel for the Government of India, he again reiterated that the person in 1944 was Thate and also stated that he did not know Nathuram Godse. The sworn testimony of Purohit does not support the story as given out in the

Poona Herald. On the other hand, it contradicts it showing that there was some mistake somewhere. At least the two dates do not tally.

9.14 The other witnesses who deposed in regard to this incident are Dr. Sushila Nayar, witness No. 53, G. S. Chaubal, who retired as Assistant to D.I.G., C.I.D., Poona and was C.I.D. Inspector in Panchgani, witness No. 31, and Superintendent Deulkar, a retired District Superintendent of Police, witness No. 6.

9.15 Dr. Sushila Nayar was a member of the Mahatma's party at Panchgani and was one of his important followers and was also his medical adviser. She was unable to recollect any person by the name of Purohit in Panchgani. She stated that some people did come and created trouble at one of the prayer meetings of Mahatma Gandhi in July 1944, but she could not say if Nathuram Godse was one of them. She said that she thought that it was the same group of Hindu Mahasabha workers who were subsequently responsible for the assassination of Mahatma Gandhi. They might be the same people. Further, she had no recollection of any person coming forward and shouting "Mahatma Gandhi Murdabad", except that there was a black flag demonstration. The demonstrators tried to push forward where the meeting was being held but they were stopped by local volunteers. She did not know what happened later as she and the party were taken away after the trouble started. She was unable to say whether Nathuram Godse was one of them or that a knife was found on his person. She added that in 1946 when talks with Mr. Jinnah were going on, some young men of whom one was Nathuram Godse and the other Thate came to Sevagram, went to the Mahatma's hut and when he was coming out, stopped him. The Ashram volunteers removed them. Subsequently she learnt that one of them had a long knife. But no one believed that there could be a deliberate attack on Mahatma's life.

9.16 If an incident like an attack on Mahatma Gandhi, which is published in the *Poona Herald*, had taken place, she would, the Commission is sure, have known of it even if she was not actually present at the time because as it has been said above she was taken away when the trouble started.

9.17 Then there are two police officers who are witnesses.

9.18 Superintendent Deulkar was Dy. S. P., Poona in 1946 and Asstt. Central Intelligence Officer. He made a statement to the police on April 4, 1948, in the investigation of Gandhi murder case at Bombay. It is marked Ex. 129. Therein he stated that he was stationed at Panchgani in July 1944, during the Mahatma's stay there as Intelligence Officer and he attended Mahatma's prayer meetings. On July 22, 1944, Apte and about 20 other Hindu young men came to Panchgani and attended the prayer meeting in the hall of the Parsi School. After the prayer, Apte suddenly got up and accosted Mahatma Gandhi in a challenging mood and asked if he had consented to the Rajaji Formula and if that was so they (Apte and others) had come to protest against it. Mahatma Gandhi replied that

he had consented to the formula and if Apte wanted to have any further discussion with him he should meet him (Mahatma Gandhi) at his residence. Apte said that he did not want any further discussion and condemned Mahatma Gandhi's action. His other companions then stood up in their seats, took out black flag and waved them against Mahatma Gandhi and shouted anti-Gandhi and anti-Pakistan slogans. Attempts were made to calm them down but the demonstrators continued shouting slogans. People gathered at the prayer meeting resented this intrusion and then the demonstrators were bodily pushed out of the compound of the school. They left shouting slogans and also left Panchgani by the same bus by which they had come.

9.19 There is no mention in this statement of any attempted attack on Mahatma Gandhi by Nathuram Godse with a knife.

9.20 In Ex. 130 which is a part of the police diary written by this witness in his investigation of the Bomb and Gandhi Murder cases, he has stated about the 1944 incident at Panchgani. He says that he was present at the prayer meeting of Mahatma Gandhi on July 22, 1944 when Apte and 20 others made a black flag demonstration against the Mahatma's consenting to C. R. formula. This document is a part of the Police Diaries of those cases.

9.21 Another policeman whose evidence is very relevant on this point is wit. No. 31 G. S. Chaubal. He is a retired Assistant to the D.I.G., C.I.D. In 1944 he was Inspector, C.I.D. at Poona and had been sent to Panchgani for intelligence purposes during Mahatma's stay there. He also has deposed regarding the incident of about 15 persons led by Apte disturbing the prayer meeting of Mahatma Gandhi. His version in regard to the Gandhi-Rajaji formula is the same as that given by wit. No. 6, Deulkar. He made a police report describing what happened of which a copy was produced. Ex. 48 is a copy of that report. In this document, the witness had reported that there was mild sensation created when 20 Hindu Mahasabha youth came by special bus from Poona, shouted slogans at the prayer meeting and waved black flags. According to this witness as indeed according to other witnesses, Mahatma Gandhi was undisturbed throughout while his followers tried mainly to calm down the demonstrators and the demonstrators were then pushed out of the hall.

9.22 Evidently, Mahatma Gandhi's Secretary, Pyarelal, was not in Panchgani at that time.

9.23 Ex. 49 is Chaubal's statement dated February 26, 1948 at Poona. This was in Gandhi Murder case. This statement of his is the same as his deposition and his report Ex. 48 which was Report No. 17 dated 23-7-1944 to the D.I.G., C.I.D. Here also there is no reference to the murderous attempt on Gandhiji's life.

9.24 Another important piece of evidence is Ex. 51 which is a news item in *The Times of India*, dated July 24, 1944. This news item shows that Mahatma Gandhi was heckled by a militant section of the Hindu Mahasabha for blessing Rajagopalachari's communal formula. This report also shows that there was a demonstration expressing resentment. The demonstration was led by Apte, and his companions, who like him were from Poona. They are stated to belong to the militant Hindu organisation and the report given in the newspaper is substantially in accord with what has been stated by witnesses No. 6, Deulkar, and No. 31, Chaubal, whose testimony the Commission has discussed above.

9.25 Wit. No. 70, Mr. Abel David, is the present editor of the *Poona Herald*. He put out the story which is being scrutinised by the Commission in this part. He admitted his authorship of the story in the *Poona Herald* on October 2, 1966. He had stated that there was an earlier attempt on Mahatma's life, i.e., earlier than 1944. The Mahatma was fired upon during the agitation against untouchability. The date of that incident he did not give but that is an incident which would not be wholly relevant to the inquiry because untouchability was a different topic altogether. But if the culprits then also were the Poona Hindu Mahasabha people that would be quite relevant. But we do not know who those people were. He also admitted the correctness of his affidavit about the incident in Panchgani.

9.26 The source of information of this witness was Manishankar Purohit, wit. No. 30, and others whose names he has given and they have been mentioned before Mr. David's explanation in regard to Purohit is that Purohit was threatened by Anand Hindu High School people, which is corroborated by the notice which was given to the *Poona Herald*, and that is the reason why Purohit shifted the scene from July 1944 to July 1947, and the people who were in-charge of the School were rather important personages. Mr. David was emphatic that the dates that he has given in the newspaper report were correct as given to him by Purohit and others. He was cross-examined by Mr. Vaidya and he reiterated that his report was made on statements made to him by Purohit, Gadekar, Dr. Savant and others. The object, he said in cross-examination, of his putting the story out in the paper was that he wanted to show that the motive for murder was not the giving of 55 crores but it had been in the air even in 1944 and even before which should have made the authorities vigilant and extra careful and should have put them on guard qua the lives of Mahatma and other leaders.

9.27 Another witness in regard to this incident is Gopal Godse, wit. No. 33. He has denied that any such incident, as was published in the *Poona Herald* of October 2, 1966, took place. He says "That incident is all false. The thing never happened. It is incorrect that Nathuram Godse went to Panchgani", but he admits that "Apte did go there with about 20 persons for the purpose of demonstration only against the C. R. formula". He sent a contradiction of the *Poona*

Herald report to that newspaper which was published in the issue of that paper dated October 9, 1966, and is marked Ex. 127. It is to the following effect:

"Nathuram never went to Panchgani during the said period. There was no attempt on Gandhiji's life by Nathuram or his associates while Gandhiji stayed at Panchgani. I am surprised to find that you, a responsible Editor, relied on hearsay and did not verify the truth."

9.28 In 1966 when the conspirators or the principal ones amongst them had paid the penalty for their crimes, Gopal Godse could have had no motive to falsely deny the alleged incident of 1944. It does not hurt him and his party. And the way these people have been behaving including their holding *Satya Vinayak Pujas* and martyrs' days they would have relished to boast about one more anti-Gandhi exploit rather than deny it.

9.29 Ex. 52 is an extract from the *Agrani* of July 23, 1944 of which the editor was Nathuram Godse. There also the incident given is that of demonstration organised by the Hindus against Rajaji's "unpious formula of Pakistan in this land of Shivaji". It is striking to note that this newspaper has stated that there were 4 armed policemen near the Mahatma for his protection. Apte is stated to have made a speech which is published in this issue of *Agrani* in which he said:

"Gandhiji! you have committed an offence of stabbing the nation, by giving your consent to Pakistan formula. You have already confessed that you have no right to speak on behalf of Hindus. Today we are demonstrating peacefully our protest on behalf of Hindu youths. You bear in mind that if you do not change your behaviour more difficult situations and ill fame are awaiting you. We will treat them as traitors who will try to vivisect our motherland. We, by this statement call on national minded people to treat Gandhi-Rajaji formula in this manner."

9.30 It is significant that although the *Agrani* has published this speech of Apte there is no mention of it either by Dr. Sushila Nayar or by the policemen, who made contemporaneous reports of the happening at that meeting nor is there any other evidence to support it. Even the affidavit of Mr. David does not contain any reference to this and therefore it is fair to conclude that no one could have informed Mr. David about it. The Commission has no doubt if such a statement was made it would have been reported by the police because the question of Pakistan was important from the point of view of the then British rulers also. Nor would it have been left out by newspaper reporters. It is difficult to believe that Dr. Sushila Nayar would not have known about it.

9.31 One must not lose sight of the fact that being himself the editor of the paper, Nathuram Godse could and would not, in ordinary circumstances, have admitted making a murderous attack on

the Mahatma but knowing him as the Commission now does, he would not have hesitated to make some reference to the attempted violence. Anyhow, even if this piece of evidence were ignored, there is sufficient evidence upon which the Commission can base its decision on this point.

9.32 As far as documents dealing with this incident are concerned, there are the statements of Deulkar made to the police. Ex. 129 in the Gandhi Murder investigation, and then his "statement", Ex. 130, really Police Diary. There is also Chaubal's statement, Ex. 48 and his statement to the police, Ex. 49. The *Times of India* report dated July 23, 1944, Ex. 51, and the *Agrani* report, Ex. 52, contradict the story of the attack. There is one other circumstance which contradicts the very existence of the incident and that is the notice which the Trustees of the School gave to the *Poona Herald*, Ex. 125, and the clarification which was published in the *Poona Herald*, Ex. 128. Of course, these are the later documents but they show that persons who were likely to know about this fact were not prepared to accept its veracity and considered the story of the *Poona Herald* as highly defamatory and took an early opportunity to record their dissent and protest.

9.33 The Commission, therefore, has in support of the news item in the *Poona Herald* a statement of its editor, Mr. David who made enquiries at Panchgani from various persons the principal one amongst whom was Manishankar Purohit who has not only changed the year of the incident but also the very details of the incident. All he says is that a knife was found on Nathuram Godse when he was searched. Unfortunately, Mr. David's principal informant has not supported the story. It may be for puerile reasons: but persons like him who do not hesitate to change their stories, scenes and even years cannot inspire confidence and can hardly be relied upon in the absence of corroboration which may be oral evidence or circumstances. And they are lacking in this case.

9.34 The evidence against this, and against the very existence of the incident, is that of wit. No. 31, Police Inspector Chaubal, and wit. No. 6, Dy. S. P. Deulkar, as they then were. Of course, Gopal Godse also denied it and Dr. Sushila Nayar has no knowledge of it.

9.35 In the opinion of the Commission, the correctness of the incident of July 1944 and even its existence is unproven. The only evidence in support of it is a 1966 investigation by the correspondent of a newspaper who one need not doubt must have made enquiries from the best of motives—the Commission can have no reason to think otherwise—and having convinced himself of the correctness he published it. The reasons are these:

If such an incident as a murderous attempt on the life of Mahatma Gandhi had happened there is no doubt that Dr. Sushila Nayar would have known about it and even though she was whisked away from the meeting when the trouble started, she was too important a member of the Mahatma's immediate followers to have remained ignorant of it.

Secondly, an incident like an attack on the Mahatma's life would not and could not have been suppressed or remained unknown. There is no reason why the newspaper correspondents of other newspapers did not send that story to their newspapers. Such a story would have been quite hot and certainly sensational in which the whole of India and many people outside were interested. And no newsmen who are watching for news like this would have dared not to report it. And Mahatma was a world figure.

Thirdly, there is no corroboration of the story. Not even Purohit has supported it and he does not seem to be the kind of a witness who would not have liked to become a hero or the cynosure of all eyes by repeating the story of his bravery in saving the great Mahatma. There is a suggestion that he has been threatened by the Trustees whose institutions have been defamed in *Poona Herald* story. That may be so. But people who can change their statements in this manner can hardly inspire confidence or be relied upon. Besides the other facts militate against the correctness of the story.

Fourthly, there is contemporaneous evidence consisting of police reports made by C.I.D. officers sent to Panchgani to report about the happenings there. In the discharge of their duties they sent their reports, which, if they were doing their duty properly, and there is no reason to think that they were deliberately suppressing facts or making faked reports, are of considerable evidentiary value. Therefore, their evidence has been discussed at some length.

9.36 Although on this evidence the alleged incident of the attack and its alleged details cannot be held to be proved, the important fact which emerges is that there was in existence an organisation which was extremely anti-Gandhi and its members persisted in pursuing Mahatma Gandhi by creating disturbances at his meetings and their attitude was no non-violent.

9.37 At Panchgani in 1944 the persons who disturbed the meeting were Poona people led by N. D. Apte who was later sentenced to death for the murder of the Mahatma. The factum of disturbance led by N. D. Apte is also supported by Ex. 34 dated August 1, 1944 which also shows that it was organised by the Hindu Rashtra Dal, which is a militant Hindu organisation in Poona.

9.38 At Sevagram a party led by L. G. Thatte, who was subsequently interrogated in the Gandhi Murder Case, according to Dr. Sushila Nayar, stopped the Mahatma and might have used violence against him if protection had not come from the Ashramites. This Thatte had a freshly sharpened dagger with 7" blade on him and according to the Police, Ex. 256, they threatened to damage the car of the Mahatma. All this is discussed in the next chapter.

9.39 These facts are indicative of the design of the Poona crowd belonging to the Rashtra Dal, which with proper harnessing might have helped the police in unearthing the identity of the conspirators after Madanlal threw a bomb, who was arrested at the spot and also made a statement to the police giving some details about the identity of his co-conspirators.

CHAPTER X

Wardha Incident

10.1 There was another incident which is relevant because it is one of the series of demonstrations against Mahatma Gandhi in regard to his policy towards the Muslims in which the demonstrators were Maharashtrians and they became aggressive when they were joined by demonstrators from Bengal. Dr. Sushila Nayar, witness No. 53, stated that in 1946, probably under a mistake, when talks with Mr. Jinnah were going on, some young men of whom one was Nathuram Godse and the other Thate came to Sevagram and objected to Mahatma's talks with Mr. Jinnah. When Mahatma was coming out of the compound of his hut and was going out for a walk, those people came in his way and stopped his going out. The ashramites removed them from his path. Subsequently she learnt that one of them, Godse or Thatte, had a sharp knife in his pocket. The ashramites including Mahatma Gandhi never imagined that anybody could really do Mahatma Gandhi harm. This was a kind of a fatalistic attitude of every one.

10.2 Another witness on this point is Pyarelal, witness No. 54. His version is that Godse and Thate and some other persons came to Sevagram and wanted to prevent Mahatma Gandhi from going to Bombay to meet Mr. Jinnah. Those people were subsequently arrested and the police found a knife on the person of one of them. The conversation of those people with the police is recorded in the first volume of his book, 'Mahatma Gandhi—the Last Phase.' On that occasion the leader of the party said that he would become a martyr when he would assassinate Mahatma Gandhi. When the police said to them that it would be left to the leaders of the Hindu Mahasabha, that person replied that that would be too great an honour for Mahatma Gandhi and that a Jamandar could be quite enough and that Jamandar referred to was Nathuram Godse.

10.3 The Maharashtra Government has produced before the Commission a Special Report by the District Superintendent of Police dated September 8, 1944, Ex. 256. The report said that there was anti-Pakistan picketing by nine volunteers whose names are given in the report of whom one was Thate; seven belonged to Bengal and one was a Madras Brahmin.

10.4 The report says that picketing was peaceful till they were joined by a batch of seven Bengalis and then they became extremely aggressive. They threatened to damage the car which was to carry Mahatma Gandhi to the railway station. He decided to walk alone with the picketers all along from Sevagram to the Railway Station. Distance to be covered was five miles. The news created a commotion in the town and if the Mahatma had walked all that distance,

a large crowd would have been attracted and the likely consequences could be serious. The picketers were warned and then arrested under the D.I.R.

10.5 In their conversation with the police, the picketers were extremely bitter against Mahatma Gandhi and L. G. Thatte said that he who would shoot Gandhi would be a martyr and when he was searched, a sharp knife, 7½" long, was found concealed on his person. Thatte was subsequently interrogated by Bombay Police in the Murder case.

10.6 When Mahatma Gandhi came to know about it, he gave up the idea of walking to the railway station and went in the car. No untoward incident occurred and Gandhiji left by Mail for Bombay. The arrest had the approval of all sections of the community and it also became clear that the Government meant business and would not tolerate a flagrant breach of the peace. Thatte was prosecuted under the Arms Act and the others were let off and left for their respective homes.

10.7 It appears that Dr. Sushila Nayar seems to be under some misapprehension and what has been given by Mr. Pyarelal and that given in the police report seems to be tallying on the whole and that is what must have happened. Godse's name is not mentioned in the police report and he may not have been there but the fact remains that Thatte did take a threatening attitude and also that there were a class of persons from Poona who would not have hesitated to inflict mortal injury on Mahatma Gandhi and were proud to say so.

10.8 This incident was only a pointer to the existence of the class of people and is corroborative of what was stated by Mr. Munshi about this school of thought in Poona which was extremely anti-Gandhi and which did not hesitate to resort to political assassination.

CHAPTER XI

Accident to Gandhiji's Special Train

11.1 In the *Bhavan's Journal* dated January 26, 1969, Ex. 252, there was an article by its editor, Mr. S. Ramakrishnan, that there was an attempt to derail the train by which Mahatma Gandhi was travelling on June 30, 1946 from Bombay to Poona and the incident happened between the railway stations of Neral and Karjat. Boulders were placed on the railway track. It was the remarkable presence of mind of the driver which averted a disastrous accident even though the dynamo of the rear of a bogie was wrecked and the engine itself was damaged. Mr. Ramakrishnan was called as a witness (No. 100) and he stated that it was felt that it was an attempt on Gandhiji's life by his political opponents but he could not say who they were. But the most vocal people against Gandhiji were extreme Hindu elements.

11.2 An article also appeared in the *Sunday Standard* of March 9, 1969 by Mr. Pyarelal, Ex. 249, and he has also given the same story. Soon after this incident Mr. Pyarelal wrote in the *Haijan* of July 7, 1946, Ex. 250. In Tendulkar's book 'Mahatma Gandhi' (Vol. VII, page 171) a similar account is given and has been marked as Ex. 251.

11.3 The Maharashtra Government have submitted before the Commission some Police Reports and the last one dealing with the mishap to Mahatma Gandhi's train is dated July 20, 1946 Bombay Weekly Letter No. 29 in which it was emphasised that the incident was one of the series of attempts by train thieves to hold up goods train and it had no political implication. There is another extract from a letter of the D.I.G., C.I.D., Poona dated July 11, 1946 where it is stated that four persons had admitted that they were responsible and there was no political motive behind it; they belonged to a gang of thieves. These Police papers have been marked as Ex. 255. There is also a news item from *The Times of India* dated July 20, 1946 in which it was given that it was not an attempt to derail Mahatma Gandhi's train and it also gave the result of Police investigation.

11.4 The Railway Board has submitted before the Commission some papers but they do not take the matter any further than the account given by the driver of the train Mr. L. M. Pereira. He describes what happened. There are copies of Press cuttings from the *Free Press Journal* dated July 3, 1946 which also shows that it was no deliberate design on Gandhiji's life. The whole evidence before the Commission is inconclusive in showing what exactly was the motive of the persons who placed the boulders on the track. The

Police theory was that this was one of the series of attempts by thieves to stop a goods train to commit theft, and that it was no attempt on Mahatma Gandhi's life. From the evidence which has been placed before the Commission it will be difficult to say what exactly was the motive of the persons who put the boulders or who they were. There is positive assertion by two prominent gentlemen who were on the train that it was an attempt on the life of Mahatma Gandhi but contemporaneous accounts given in the *Free Press Journal* and *The Times of India* give the Police version. On the evidence it will be unsafe to come to a conclusion that it was a deliberate attempt to derail Mahatma Gandhi's train, which the driver has termed in his report as the "Mahatma's special". The only importance of this incident is the area, particularly hostile to Mahatma Gandhi, where this attempt at derailing took place.

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CHAPTER XII

Conditions in Delhi

A. *Partition Of India, The Events Leading Up To It And The Aftermath Of the Partition**

12A.1 In an interview to the Special Correspondent of the A.P.I. on December 10, 1945 published in the *Dawn* of December 12, 1945, Mr. Jinnah threw out a feeler to watch its reaction. He said therein "it is possible that there will have to be an exchange of population if it can be done on a purely voluntary basis". The idea was not acceptable to the non-Muslims of the areas which were likely to go into Pakistan. But to the Muslim League it was a matter of great urgency as it offered a complete answer to the opponents of Pakistan. The non-Muslims of the Punjab, N.W.F.P., Sind and Bengal could never consent to leave their lands, the industry and commerce that they had built up with their money and labour to "become beggars and nomads to satisfy a whim of Mr. Jinnah; nor would the Muslims of U.P., Bombay, Madras, Bihar and C.P. be willing to abandon their native soil, give up everything they owned and made life worth living and migrate to distant lands". The dream of exchanging population on voluntary basis was not possible of realisation and Muslim League had to find another way of resolving the difficulty.

12A.2 The Calcutta experiment, the Great Killing, though not successful intimidated a number of non-Muslims into leaving their homes. The experience there gained proved useful in Noakhali and Tippera (a district on borders of the State of Tripura). With better organisation Muslim League was able to strike terror into the hearts of non-Muslims, destroy their property, their self-respect and the honour of their women and converted them wholesale to Islam. This was found to be a more effective way of dealing with the minority and obviated the difficulties involved in exchange of population. There was retaliation in Bihar; the Muslims had to leave the province to seek shelter in Sind. The question of exchange arose once again to be put forward more seriously and vehemently. On November 24, 1946 Mr. Jinnah at a Press Conference at Karachi reported in the *Dawn* of November 26, 1946 said that the question of exchange should be taken up immediately. The non-Muslims all over India reacted most unfavourably but it was wholeheartedly supported by the Muslim League and a Punjab Muslim leader none other than the Nawab of Mamdot threatened that they were going to enforce it.

12A.3 Experienced and discerning administrators like Sir Evan Jenkins, the Governor of the Punjab characterised this move as forcibly driving away of Hindus from the Punjab. Against this the Punjab Muslim League leaders protested but at the same time they

* See "The Stern Reckoning" by Mr. Justice G.D. Khosla

pointed out the dangers of small minorities likely to be at the mercy of the majority community in the Punjab.

12A.4 Sir Feroze Khan Noon had already threatened re-enacting of the atrocities of Changez Khan and Halaqu Khan, of course, in getting that neither of them were Muslims. In the month of January 1947 the Muslims started an agitation and rehearsed "the great *putsch*" which would solve the question of minorities. This resulted in the composite unionist coalition Ministry going out of office in the Punjab.

12A.5 The unfounded allegation of the use of intemperate language by some non-Muslim Punjab leaders particularly Master Tara Singh, became an excuse for a bloody assault on non-Muslim life and property particularly in the districts where non-Muslims were in a hopeless minority, e.g., Rawalpindi. This attack has been described as "the Rape of Rawalpindi" where in order to save their lives non-Muslims accepted Islam and in order to save their honour a large number of Hindu and Sikh women committed *johar* (self immolation); they threw themselves into wells and committed suicide after killing their female children which was the only method by which they could save their honour.

12A.6 The demand of the Sikhs was that the boundary of partition should be Chenab. Fearing thereby they may lose Lahore, the Muslims in May 1947 started stabbing and arson in the walled city of Lahore. Thus began the exodus from that ancient city which had once been the centre of the Sikh power in the Punjab. It was pathetic to see the great families and small families who had been the backbone of the Sikh-raj which was replaced by the might of the British Empire leaving the city of Lahore destitute, deprived of all their belongings and their properties, which for generations they, with hard work had collected and cherished, with fear in their eyes in an indescribable state of destitution.

12A.7 When these tales of misery, anguish and horror reached Amritsar, the Sikh community particularly and the Hindus also were roused in indignation and resentment and revenge and retaliation rose in their hearts. The rural areas of Amritsar district and the walled part of that sacred city became the scene of communal riots. In Lahore also the defence of the Hindus was taken up by the R.S.S. volunteers who succeeded in saving many lives and honour of thousands of women and hit back where they could but it was a losing battle because the Muslim League volunteers had the assistance of the authorities and the Hindu Police and Hindu officials had all opted for India. But the most unexpected and astounding part of the tragedy was the failure of the Great Khalsa of Majha area of Lahore.

12A.8 When this retaliation gathered strength a two-way traffic of men, women and children "hounded out of their homes and running to seek shelter in unknown lands started and continued for several months". Those who were victims of this two-way traffic and have either travelled in refugee trains and trucks or have seen or moved in footcaravans only can describe the horrors they went through, the atrocities that they suffered, the dishonour which they had to endure leaving aside the hunger, the thirst and the constant fear of

impending death which they faced until they got across what became the West Punjab-East Punjab border.

12A.9 One had only to see the trains which came in with these tear-stricken hounded mass of humanity, the trains were full to suffocation, people travelled on the roofs of the trains. But the people who had insisted on the exchange of population in West Punjab were not going to let this hounded humanity to leave unscathed or without getting a taste of the horrors, atrocities, inhuman treatment and degradation which was forced upon them.

12A.10. For hours trains were stopped at railway stations for no explainable reasons. Water taps were closed. In the sweltering heat of the Punjab summer non-Muslims leaving by trains were deprived of food and water, small children and infants died of thirst and starvation. According to one authentic account, fathers and mothers gave their own urine whatever little there was to their own babies to drink. Trains carrying refugees were attacked. Motor-lorries and trucks were stopped, young-girls abducted, grown up women were raped or abducted and others were killed. Those whose lives were spared were only too happy to escape with their bare life.

12A.11 The caravans that moved left decrepit old men and women by the road-side to die and nobody looked at them. The routes were littered with dead bodies, putrefying, bloated, smelling which were the prey for birds and animals of prey. It was a defeated, disheartened, grieving despoiled mass that moved out in caravans.

12A.12 When it was deliberate policy of the Muslim League and of all those who sponsored the idea of Pakistan, to drive out the minorities it would have been a little too much to expect any succour, aid or comfort from that quarter. Unfortunately the military and police escort in most cases was Muslim who hardly inspired any confidence in the refugees, who instead of protecting those who were put in their charge, could not resist the temptation of participating in the looting by its coreligionists.

12A.13 There had been several attacks on the trains carrying refugees in West Punjab but particularly savage was the treatment meted out to these trains after the 15th August, 1947. In September the trains from Pind Dadan Khan in Jhelum district was attacked at three places. 200 women were killed or carried away. The refugee train from Wah was attacked near Wazirabad and instead of its going straight to Lahore was diverted to Sialkot. This was in September. In October the same thing happened to a train coming from Sialkot but particularly horrible was the train from Bannu which was attacked at Gujrat railway station in January 1948 resulting in massacre of non-Muslims. The same train had been attacked at Khushab and instead of being brought to Lahore via Sargodha and Lyallpur the usual and the direct route of Mari-Indus, Khushab, Sargodha, Lyallpur, Sangla Hill, Lahore was brought by a longer route of Khushab, Malakwal, Lalamusa and Gujrat, Wazirabad, Lahore. Although it was escorted by a contingent of Bihar Regiment, it was attacked by armed Pathans and fired at, the military

replied and the firing went on till the ammunition of the military was exhausted. The mob consisting of about 3,000 armed Pathans then attacked the train. 500 people were killed. The passengers were from Bannu and belonged to a comparatively affluent class. They were looted to the last penny. This was in January 1948.

Parachinar Tragedy was result of Pakistan in action—(Hindustan Times—28-1-1948).

12A.14 Because the non-Muslims in Parachinar were attacked by the neighbouring tribes and their houses and shops were looted, it was decided to move them to Kohat and from there to take them to India by train. It was also decided to keep them in a camp in tents under proper guard till necessary arrangements could be made to move them.

12A.15 The non-Muslims were evacuated and kept under tents but they were not given any free rations nor rations on controlled prices. Their houses were broken into and looted. When the snow began to fall the Government of India took the matter up. The Governor of N.W.F.P. ordered the breaking up of camp but the inmates refused to return to their homes and preferred to stay in tents in inhospitable weather which showed how unsafe they felt. On the night of 22nd January Parachinar camp was attacked by the tribesmen. 130 non-Muslims were killed, 50 wounded and 50 abducted. Thereafter 1,100 refugees from Parachinar were sent by train from Kohat.

12A.16 Kidnapping of young women and the treatment to which they were subjected was a sordid chapter in the history of human relations. They were taken, molested, raped, passed on from man to man, bartered, sold like cattle and those who were then subsequently rescued gave an account which would be, to put it mildly, hair-raising.

12A.17 When news of this kind of raping, abduction, looting, arson, murder and massacre reached the people of East Punjab it led to retaliation which cannot be described as a proud performance of the East Punjabis. The public in general had no faith in the boundary forces or any authority or the local authorities and the oppressed people had confidence in no one and if it was in anyone at all it was only in the topmost echelon of leaders. And thus personal letters started being sent to both the Prime Minister Jawaharlal Nehru and Sardar Patel. Some letters were to say the least importunating for the rescue of a wife or a father or other relatives. "There were letters complaining of the indecision of the Government of India accusing the Prime Minister of India of lack of sympathy for the non-Muslims, letters charging him with enjoying the fruits of victory at the expense of Hindus of West Punjab.....", letters about relatives who were untraced.

12A.18 "Day after day, week after week, non-Muslims from West Punjab continued to pour across the border in trains, lorries, aeroplanes, bullock-carts and on foot, till, by the end of December 1947,

four millions of them had come to India. All of them had left behind their property and valuables, the majority of them had suffered bereavement; their bodies sick and wounded, their souls bruised with the shock of horror, they came to a new home. There was discomfort in the refugee camps and the future held out uncertain hopes but, at last, their lives were free from danger and the honour of their womenfolk was safe. As they crossed the boundary line and entered the Dominion of India, a cry of joy arose from their tired and almost voiceless throats with the spontaneity of a reflex action. Many of them wept with sheer relief as they uttered the salutation, "Jai Hind."

12A.19 A song which was recited at the Muslim League conference at Sultankot in Sind is illustrative of the mood that the supporters of Pakistan were in. The song has been translated thus:

"Let there be in Pakistan, the separate
centre of Islam,

We shall not in Pakistan have to look at
faces of non-Muslims.

The abodes of the Muslim Nation will
brighten up only,

When in Pakistan there remain no
idolatrous thorns.

They (Hindus) whose function is to be
slaves have no right to participate
in Government,

Nowhere have they succeeded in governing."

12A.20 "There were several attacks on trains between Jullundur and Ludhiana and between Ludhiana and Rajpura. Sikh jathas from Patiala were said to be responsible for these attacks. The authorities, at this time, were dismayed to see that there was "very little evidence of willingness on the part of the Sikhs to cry a halt." It will be remembered that, by this time, the Sikhs had become special targets of Muslim fury in West Punjab. A Sikh was not safe anywhere and was killed at sight."

12A.21 Even in Sind there were similar incidents and one such incident is recorded in a document dated 11th January, 1948 (Ex. 260) in which it is stated that a batch of 850 Hindu refugees landed at Okha on 9th January 1948. They were from among those who arrived in Karachi from Quetta by Quetta Mail and they were looted and the usual massacre, etc. followed. The document also shows the brutal manner in which the Sindhis including Sikhs were massacred. Their women were robbed even of ornaments which they were wearing on their persons, like nose rings, etc.

12A.22 Another document dated 15th January, 1948 (Ex. 260-A) from the Dy. Inspector General of Police, C.I.D., Bombay, to the District Superintendents, Deputy Inspectors General of other Ranges

shows that on 6th January 1948 there was communal rioting in Karachi wherein terrible atrocities were committed by Muslims on Hindus, Sikhs and others and the first batch of these refugees consisting of 350 Hindus landed at port Okha in Kathiawar and others were likely to follow. These refugees consisted of all classes of people from many of the provinces in India, like Maharashtrians, Punjabis, Sindhis, Kathiawaris, Marwaris, etc. These refugees, so the document says, were "craving for Muslim blood". The D.S.Ps. were asked to watch the activities of these refugees.

Conditions in Delhi before the bomb explosion

12A.23 In order to determine the adequacy of the precautions taken to protect the life of Mahatma Gandhi, two facts require scrutiny.

- (i) what were the conditions in Delhi at the time; and
- (ii) what was the information which the authorities had regarding danger to the Mahatma's life.

The former deals with environmental conditions and the latter with the knowledge of the Government of India and the Delhi Administration.

The mood of the populace

12A.24 Quite a large number of refugees had come to Delhi. From the 10th January, 1948 the influx of refugees was very large and they were not very happy with what Mahatma Gandhi was saying regarding their rehabilitation. On January 13, after the refusal of the Central Government to pay 55 crores to Pakistan, he started his fast with the twin object to force the Government for the payment of 55 crores to Pakistan and for promoting better Hindu and Muslim relations. When the payment was made and leaders of communities had signed the multipoint pledge of Mahatma Gandhi, he broke his fast on January 18. On January 19, 1948 there was a Press statement of Ashutosh Lahiri, General Secretary of the Hindu Mahasabha (Ex. P.25 in the trial court) in which the attitude of Mahatma was strongly criticised and the Hindu Mahasabha disowned any acquiescence in or agreement with the multipoint pledge which Mahatma Gandhi had put forward as a pre-condition for his giving up the fast and to which both Hindu and Mohammedan leaders had put their signatures before the fast was given up. It has been stated that Lord Mountbatten at that time was putting mental pressure on Mahatma Gandhi and Pandit Nehru to create an atmosphere for Muslims to stay on and not migrate to Pakistan. This was stated by Mr. J. N. Sahni, witness No. 95. He also said that they as journalists knew that Lord Mountbatten was putting pressure both for the payment of 55 crores and for improving Hindu-Muslim relations. Whatever one may say of the former the latter was a laudable object. Mr. Pyarelal, witness No. 54, stated in this connection that Mahatma Gandhi undertook the fast to create an atmosphere for payment of 55 crores and for an atmosphere of cordiality and peace between Hindus and Muslims. Gandhiji did not accept the validity of the

claim of 55 crores but he based his insistence on its being morally binding. All this caused resentment among the Hindus, particularly the refugee. As Lord Mountbatten was not examined by the Commission, it expresses no opinion regarding his part.

12A.25 Pyarelal in his book "Mahatma Gandhi—The Last Phase", page 700, vol. II discusses the question of withholding of the 55 crores thus:—

12A.26 On 6th January the Mahatma discussed the question with Lord Mountbatten and asked his "frank and candid" opinion about the Government of India's decision. Lord Mountbatten said that this would be the "first dishonourable act" by the Indian Union if payment was withheld. It set Mahatma Gandhi thinking. "For that he would have to transform the overall situation and to create a new moral climate which would make it possible for the Indian Government to go beyond the strict letter of the law." Another factor, according to Pyarelal, which weighed on the mind of the Mahatma was what the Maulanas of Delhi told him on the 11th January. They said that they claim India as their motherland and they had continued to stay in Delhi even in the worst of times but their patience was exhausted and if the Congress could not guarantee their protection let them plainly say so and the Muslims would then go away and be at least spared the daily insults and possible physical violence. They could not even go to Pakistan as they had opposed the formation of Pakistan. They asked Mahatmaji, "Why not arrange a passage for us and send us to England if you cannot guarantee our safety and self-respect here."

12A.27 On the 12th January Mahatmaji made up his mind to go on fast unless the madness in Delhi ceased. The fast began from the next day.

Mr. M. S. Randhawa, Witness 18

12A.28 Mr. M. S. Randhawa, witness No. 18, who was the Deputy Commissioner of Delhi said that the refugees were in an angry mood because of the fast. To quote Mr. Randhawa:

"The situation at that time was very tense. The whole thing was in a flux. The refugees were in a very angry mood. Mahatma Gandhi had undertaken a fast. A large number of refugees used to gather outside Birla House and shouted slogans "Gandhi ko marne do" (Let Mahatma Gandhi Die). It was partly due to the fact that he insisted that Government of India should pay over to Pakistan a sum of rupees fifty-five crores. The refugees were also angry with him because they thought that Mahatma Gandhi instead of giving help to the refugees was trying to help the Muslim community. I was under the impression that this bomb had been thrown as a protest against his pro-Muslim or anti-refugee policy. It was suspected at the time that the R.S.S. and the conservative extremist Hindus were at the back of this bomb incident and also that it was a mode by which the refugees showed their resentment and indignation."

Dr. Sushila Nayar, Witness 53

12A.29 Dr. Sushila Nayar, Mahatma's Personal Physician (witness No. 53) has described the conditions before and during the fast thus: Mahatma Gandhi blamed persons who were guilty of violence and advised the majority community to behave properly towards the minority which caused a certain amount of discontent among the refugees who shouted slogans outside the Birla House. Mahatma Gandhi undertook a fast because the atmosphere became too oppressive on account of both sides exaggerating matters and the Mahatma was anxious that proper protection should be accorded to minorities here so that in Pakistan also the minorities could feel safe. He said that he could not ask Pakistan to behave until India herself behaved in a proper manner. "Evil is not weighed in golden scales." Continuing, she said:

"When Mahatmaji undertook the fast, for the first two or three days the refugees were not affected thereby. On the other hand they began shouting "Gandhiji ko marne do, ham ko ghar do". But after four or five days when Gandhiji's health deteriorated there was a complete change in the mentality of both the Hindus and the Muslims of Delhi. Long lines of persons used to come and ask Gandhiji to give up his fast; they had tears running down their cheeks. There were men, women, Hindus, Muslims, Muslim women in *burqas*, refugees and non-refugees. It made a tremendous impression on the whole of the Delhi populace."

12A.30 She added that the refugees were in an angry mood when the Mahatma undertook the fast. About the precautions taken she said that after the bomb there were more plain-clothes policemen round about the Birla House but she did not know if they also attended the prayer meetings. There was one policeman who said "What difference does it make if an old man dies. Why make a fuss." She added that she was told about it. She said she was not consulted about the security arrangements.

12A.31 Further, she could not say if any other precaution beyond the increase of a number of plain clothes policemen was taken. The police wanted the additional precautions of screening, i.e., to search the people coming to the prayer meeting. Of course this request was not accepted by the Mahatma.

Pyarelal, Witness 54

12A.32 Witness No. 54, Mr. Pyarelal, also has stated that after the fast had been going on for a few days there was a general demand by the people of Delhi that the Mahatma should give up his fast.

Brij Kishan Chandiwala, Witness 11

12A.33 Mr. Brij Kishan Chandiwala, witness No. 11 before Mr. Pathak said that in September, 1947, Hindu-Muslim riots were going on in Delhi and the city was under a curfew. A number of people were killed and he (Chandiwala) related the conditions to

Mahatma Gandhi. As a matter of fact, it was this gentleman who called back the Mahatma from Calcutta and, in his opinion, if the Mahatma had not come there would have been a greater slaughter in the streets of Delhi. On his coming, peace was restored. But the Hindu refugees from Pakistan were angry. On one occasion they approached Gandhiji and used hot words when Gandhiji went to Kingsway Camp. The opposition steadily grew in volume and the letters, which Mahatma received and which used to be read by Chandiwala, were full of abuses and threats. Chandiwala arranged an interview of the refugees with the Mahatma and they said unpleasant things to him to his face. On another day a big procession came to Birla House and the processionists raised the slogan "Blood for Blood". They were opposed to Gandhiji's pressure for the payment of 55 crores. A large police force was there to stop the procession at the Birla House. But at that time Pandit Nehru came out of the Birla House where he was holding a meeting with Gandhiji and others and he "checked the procession". Had he not done so, the Mahatma might have been assaulted.

12A.34 The *Times of India* dated January 15, 1948, Ex. 248, carried the story that on January 14 some people had gathered outside the gate of Birla House and said "Let Gandhi Die" and Pandit Nehru was coming out from a meeting wherein Mahatma Gandhi, Pandit Nehru, Sardar Patel and Maulana Azad took part and when he heard this he got out of his car and shouted "How dare you say those words? Come and kill me first." The demonstrators then went away.

12A.35 This report supports what Mr. Brij Kishan Chandiwala has said about the shouting of slogans by the refugees. But it does not support him when he says that if Pandit Nehru had not come they would have assaulted Mahatma Gandhi. According to the Press Report the protestors were not many. There was a large number of policemen to stop the procession and it is difficult to believe that the people could have gone into the Birla House to assault Mahatma Gandhi in the presence of the strong posse of Police. It is possible that Mr. Brij Kishan Chandiwala was greatly perturbed and apprehensive because of the slogans raised that those people would assault Mahatma Gandhi and he must have felt a sigh of relief when a few words from Pandit Nehru just drove those 30 people away.

12A.36 Another witness, Vishwanath Shah, witness No. 3 before Mr. Pathak, stated that when rupees 55 crores were given to Pakistan on the insistence of Mahatma Gandhi, there were processions and propaganda against the Mahatma in Delhi. A very hostile atmosphere was created against Gandhiji which "encouraged" young people of which the Government was aware. There used to be demonstrations outside against Gandhiji and people even threw stones but they were driven away by Congress volunteers. To this the Mahatma objected, saying "Why have you badly treated them".

12A.37 Pyarelal in his book "Mahatma Gandhi—The Last Phase" at page 711, Vol. II, has said:

"Within twenty-four hours of the commencement of the fast, the Cabinet of the Indian Union met on the lawn of Birla

House round Gandhiji's fasting bed to consider afresh the issue of Pakistan's share of the cash balances. But it made those who were already angry with Gandhiji for what they considered as his partiality towards the Muslims angrier still. A fanatical group among them began to organise a dark conspiracy to compass his death.

"At night some Sikhs from the West Punjab held a demonstration in front of Birla House, shouting, "Blood for Blood", "We want revenge", "Let Gandhi die". Pandit Nehru had just boarded his car to leave Birla House after meeting Gandhiji. On hearing the shouts he got down from his car and rushed out. "Who dares to shout "Let Gandhi die"? he roared. "Let him who dares repeat these words in my presence. He will have to kill me first". The demonstrators scurried away helter-skelter."

12A.38 This appears to be a more correct and balanced view of the incident. During his Calcutta fast Mahatma was cheerful but not during his fast in Delhi. That was because, "it was comparatively easy-going in Calcutta. The task here is far more difficult. There was no refugee problem there to complicate the issue." According to Pyarelal's book, the fast had a tremendous effect on the populace. "It steadied the waverers and lent courage and strength to those..... who had hitherto indecisively hung back.....".

12A.39 He also mentioned that there were a number of telegrams of sympathy and support from Muslim leaders and Muslim organisations all over India and even abroad. A Muslim divine from Bareilly giving a *fatwa* (injunction) to his Muslim followers said:

"There is no greater friend of Musalmans than you, whether in Pakistan or Hindustan..... My heart bleeds with yours at recent Karachi and Gujrat (Pakistan) atrocities, the massacre of innocent men, women and children, forcible conversion and the abduction of women. These are crimes against Allah for which there is no pardon."

12A.40 It ended with injunction to the Pakistan Muslims and to his followers in Hindustan that they must condemn the misdeeds of their co-religionists in Pakistan in unambiguous and emphatic terms. Even Raja Ghaznafar Ali Khan, a Pakistan Minister, in an interview lauded Mahatma Gandhi's efforts and references were made on the floor of the West Punjab Assembly (Pakistan) saying that no greater man than Mahatma Gandhi had been born in the world, and both Malik Feroz Khan Noon and Mian Mumtaz Khan Daultana said that "his feelings for the protection of minorities are fully shared by us".

12A.41 At page 715 Pyarelal says that people woke up to their full sense of responsibility and set out organising an all out campaign to bring about a real change of heart. Even a deputation of refugees from the Frontier Province told him that they would bear no ill-will against the Muslims.

12A.41A Lord Mountbatten's Press Attache wrote in his diary: "You have to live in the vicinity of a Gandhi fast to understand its pulling power. The whole of Gandhi's life is a fascinating study in the art of influencing the masses, and judging by the success he has achieved in this mysterious domain, he must be accounted one of the greatest artists in leadership, of all time. He has a genius for acting through symbols which all can understand." (P. 190).

12A.42 At page 716, he says, "Gandhi was equally outspoken with those who were trying to make capital out of his fast to run down Sardar Patel."

12A.43 Says Pyarelal, "Unlike Gandhiji he did not suffer fools or fanatics gladly, and as an administrator he never forgot, though he was ever ready to forgive if there was genuine repentance.....".

12A.44 A leaflet Ex. 105 which is hand-written and is alleged to have been published at Amritsar and distributed at Alwar also is an attack on the anti-Hindu policy of Mahatma Gandhi. But the Commission is not satisfied with the authenticity of this document and does not consider it safe to rely upon it.

12A.45 Bombay Weekly Newspaper, the *National Guardian*, in its issue of January 17, 1948, under the heading "Nehru Government's Great Betrayal of India—Gandhiji's Coercion tells where Pakistan's Blackmail Fails" said "with all tall talk of not paying money to kill our nationals and the Sardar's brave words of not succumbing to bullies and blackmailers, the Nehru Government has been coerced into paying crores of rupees to Pakistan by the fast of the Mahatma". All this was demonstrative of peoples resentment over the payment of Rs. 55 crores.

12A.46 The opinion of Sardar Patel about the payment of the cash balances is shown by his speech at Bombay, on 16th January 1948 (reported in "Hindustan Times" of 17th January). He said that they had handed over 55 crores in a spirit of generosity and goodwill which was admitted by the Financial Adviser of Pakistan Government and the London Economist and that they had decided to pay this money in order to relieve Gandhiji of his mental agony.

12A.47 He also referred to the plight of the refugees who were coming to India deprived of everything that they possessed "anger rules their hearts and turns their minds completely. We have to tolerate all this."

12A.48 The Delhi daily C.I.D. Report dated January 16, 1948, shows that some people thought Mahatma Gandhi's fast to be merely a political stunt in order to get India's complaint before the U.N.O. decided quickly and to get a majority in favour of India. The Government servants who had come from Pakistan were complaining that they were not able to get living accommodation in Delhi nor allowed to agitate in order to get their grievances redressed.

12A.49 Feeling against the Government was running high on account of the order of directing the payment of 55 crores to Pakistan. It was being said that the Government had surrendered to Pakistan and even the Congress workers had started showing dissatisfaction.

12A.50 C.I.D. Report dated January 19, 1948, shows that the people were greatly agitated and resented the attitude of the West Punjab Government in refusing to honour the agreement regarding rescuing of abducted women and not allowing the Liaison Officers to go into Gujrat district which was adding insult to injury, i.e., after giving of 55 crores. It was also stated that the Hindu Sabha was not willing to be a party to the Seven Point pledge given to Mahatma Gandhi. Mr. Jayaprakash Narayan said at Socialist workers' meeting that the Socialists did not want to quarrel with the Government for the time-being and advised them to remain in the Congress.

12A.51 Posters were issued by Muslims where the Deputy Commissioner and the Police were accused of disturbing the communal peace of the City and the Government was asked to replace them.

K. M. Munshi, Witness 82

12A.52 The evidence of Mr. K. M. Munshi, witness No. 82, is very relevant in regard to this topic. He stated that about the end of 1947 and beginning of 1948, Gandhiji became very unpopular because of his insistence upon giving of 55 crores to Pakistan. There were, besides it, other grievances arising from Partition and Hindus in general and particularly Hindus of Northern India laid the responsibility for the Partition on Mahatma Gandhi and there was a strong feeling, though unjustified, amongst the Hindus that if Mahatma Gandhi had not appeased the Muslims by conceding Pakistan the Hindus would not have had to undergo those terrible miseries to which they were subjected.

12A.53 Mr. Munshi had come to Delhi from Hyderabad two or three days before 30th January, 1948, and discussed the danger to Gandhiji with some of the members of Gandhiji's party and they were feeling very unhappy at Gandhiji's objection to the taking of necessary precautionary measures. At that time, there was a general fear that another attempt would be made on Gandhiji's life but Gandhiji had strictly forbidden any policemen being stationed at his prayer meeting so as to restrict or prevent the coming of anybody to the prayer meeting.

12A.54 The witness has given an account of Gandhiji's murder and the events of last two or three days in his book 'The End of An Era' Chapter XIV which has been marked as Ex. 151.

12A.55 Pyarelal in his book "Mahatma Gandhi—The Last Phase" Vol. II at page 457 records the state of mind of Mahatma on his birthday in 1947 which became the last. He writes:

"The occasion burnt itself on the memories of the visitors as one of the saddest in Gandhiji's life. 'What sin must I

have committed', he remarked to the Sardar, 'that he should have kept me alive to witness all these horrors?'

"He seemed to be consumed by the feeling of helplessness in the face of the surrounding conflagration. Recorded the Sardar's daughter, Maniben, mournfully that day in her journal: 'His anguish was unbearable. We had gone to him in elation; we returned home with a heavy heart'.

"After the visitors had left, he had another spasm of coughing. 'I would prefer to quit this frame unless the all-healing efficacy of His name fills me', he murmured. 'The desire to live for 125 years has completely vanished as a result of this continued fratricide. I do not want to be helpless witness of it'."

12A.56 At pages 685-686 of the same book, Pyarelal has said that the Mahatma had become irritable and that he was trying to keep it down. Suddenly he used to say, "Don't you see, I am mounted on my funeral pyre?" Sometimes he would say, "You should know it is a corpse that is telling you this". He was literally praying that God should gather him into His bosom and deliver him from the agony that the life had become. Sometimes he would say that he has become a dead weight on his colleagues and on the country and an anachronism and a mis-fit in the new era that was shaping around him and which he had done more than anyone else to shape. After independence "we are bidding fair to say good-bye to non-violence..... If India has no further use for *Ahimsa*, can she have any for me? I would not in the least be surprised if in spite of all the homage that the national leaders pay to me, they were one day to say: 'We have had enough of this old man; why does he not leave us alone?'

12A.57 At page 443 of his book, Pyarelal has described the mood of Muslim refugees who were in the Purana Qila. On the 13th September, Gandhiji visited this camp where some Muslim Leaguers, after doing all the mischief that they could, had established themselves as leaders of the refugees and were engaging, among other things, in defrauding their brethren of the rations that were being sent to feed them.

"The refugees were in a very ugly mood. As soon as Gandhiji's car entered the gate, crowds of them rushed out of their tents and surrounded it. Anti-Gandhi slogans were shouted. Someone from among the crowd violently opened the door of Gandhiji's car. One of the friends who had taken Gandhiji to the camp asked the driver to take the car out of the camp by the nearest gate. The driver pressed the pedal and the car shot forward. But Gandhiji ordered him to stop. He wanted to face the angry crowd, he said. Immediately the refugees came running up and again surrounded the car. While his companion helplessly looked on, he stepped out. The crowd closed in upon him. He asked them to assemble on the

lawn. Some sat down. Those on the fringes kept standing and full of anger, gesticulated menacingly. Some Muslim volunteers tried to pacify them."

12A.58 Refugees narrated to him the tales of their sufferings which Gandhiji heard with sympathy and promised to do all he could. Those thirsting for his blood a few moments before were now his friends and they respectfully escorted him to his car and bade him good-bye with folded hands.

"When the Sardar learnt of the incident he fumed. As Home Minister, it was his duty to ensure Gandhiji's safety. Why was he not informed in time to take security measures? He gave strict instructions to Gandhiji's staff that in future he was not to be taken out anywhere without prior notice to him."

12A.59 Mr. Purushottam Trikamdas, witness No. 15, has also stated that when he went to see Mahatmaji on or about the 4th or 5th January, 1948, he was in a very depressed mood. He said that "Sardar calls himself my 'chela', Jawaharlal calls himself by 'beta', but both of them seem to think that I am crazy and nobody listens to me": (MERI KOI SUNTA NAHIN HAI).

12A.60 The Mahatma's opposition to retaliation was expressed even on the 27th January when he in his post-prayer address, referred to the attack on Parachinar refugees and asked those assembled not to think of retaliation ("Hindustan Times" 28th January 1948).

12A.61 Ex. 135 dated 24th January, 1948, Police Intelligence Report shows that there was resentment against Gandhiji. There was a meeting of the Provincial Hindu Mahasabha in Delhi on the 18th in which one Kesho Ram made a speech and characterised Mahatma as a dictator and said that he might meet the fate of Hitler soon. Were the words meant to be prophetic?

12A.62 On January 27, 1948 (Ex. 136) another meeting of the Hindu Mahasabha Delhi was held in Connaught Place in spite of the ban wherein anti-Gandhi speeches were made. Prof. Ram Singh criticised the Government of India and Gandhiji for pro-Muslim policy; so did Mr. V. G. Deshpande who was an office bearer of the Hindu Mahasabha. According to him, the Mahatma's fast was intended to coerce the Cabinet to pay out 55 crores to Pakistan which, he said, will be used to shed Hindu blood. Nehru Government, he said, had lost public confidence and it had no right to remain in office. Speeches were made in that strain and it was even said that the best course for the Hindus was that they should turn out the Mahatma and other anti-Hindu forces to Pakistan so that they might not endanger peace of the country, and accused Maulana Azad of being a rabid Muslim. A resolution was passed rejecting the seven-point peace pledge which was Mahatma Gandhi's pre-condition for giving up his fast, condemned the payment of 55 crores to Pakistan and there were cries of 'May Madanlal Live Long', 'Long Live Hindu Nation', 'Turn Out Muslims' and 'Long Live Hindu Sangathan'.

12A.63 The most disconcerting and upsetting aspect of this meeting was the raising of these objectionable slogans which was an ugly demonstration of a very perverse and distorted vision and a condemnation if not commendation, of the offences of bomb throwing and of attempted murder, which attitude of mind deserves the strongest condemnation. It is still more disconcerting to find that the Delhi Police did little to stop this meeting. Notwithstanding the exculpatory explanations offered by Inspector Ram Chand Bhatia, S.H.O., Parliament Street Police Station, by Deputy Superintendent Jaswant Singh or by District Superintendent A. N. Bhatia, the Commission is not satisfied that the meeting was not preventable or "immediate" punitive measures could not be taken against those who had transgressed the law in that brazen manner. These explanations are set out in a later part of this chapter.

J. N. Sahni, Witness 95

12A.64 There is another informative piece of evidence giving the conditions prevailing in and about Delhi and about the mood of the refugees. Mr. J. N. Sahni, witness No. 95, a well known journalist, who was working for the refugees also, has given a fair account of the conditions in Delhi *vis-a-vis* the refugees. He has deposed firstly in regard to the refugees from West Punjab and North West Frontier Province. He said that even before the Partition, refugees had started coming into Delhi. They were sullen and desperate. A larger number came after the Partition. They had terrible tales to tell. Unfortunately the relief was inadequate and the camps in East Punjab, e.g., Kurukshetra Camp, were poorly equipped.

12A.65 The refugees, said Mr. Sahni, were in a very angry mood because the response to their needs and to their amenities of life was poor and what infuriated them more was that India was making terrific efforts to keep back the Muslims and not doing anything for the rehabilitation of those Hindus and Sikhs who were forced to leave their homes in Pakistan.

12A.66 The inhabitants of Delhi, Mr. Sahni said, were "quiescent" but when the refugees came, communal rioting started. The Muslims in certain localities had well provided themselves with arms and ammunition, of which there were dumps in certain shops and houses. Mr. Justice G. D. Khosla in his report about the Partition matters published *sub nomine* "Stern Reckoning" has mentioned the collection of arms in certain Muslim localities since November 1946 and also that rioting started in August 1947 and continued till September 1947 and has set out the details of rioting and other disturbances in Delhi at pages 282-285.

12A.67 All this worried Mohammedan leaders particularly those who were in the Congress as also the Congress Hindus in the Cabinet. At that time Mahatma Gandhi sent a secret mission to Mr. Jinnah offering to serve the Muslim refugees in Pakistan and he had been writing to them earlier also but they were not prepared to accept his help. Mahatma Gandhi's idea was and he genuinely believed that if he served the Muslims in India, it would be possible for Hindus of the West Punjab and Frontier Province to return safely to their homes. He thought if he could save Muslims in Bihar he would be safeguarding the Hindus in Noakhali.

12A.68 During all this time, said Mr. Sahni, Lord Mountbatten was creating mental pressure on both Mahatma Gandhi and Pandit Nehru that they should do something spectacular to save the situation by making it safe for the Mohammedans to stay in India and that would be a great gesture for Pakistan to act in the same way.

12A.69 Most of the Chief Ministers, said Mr. Sahni, roundabout Delhi for some mysterious reason adopted a very unfriendly attitude and they were not prepared to take the refugees into their respective Provinces. In fact, the refugees were stopped so that they could not go even to their close relatives living in those Provinces unless they went very quietly and clandestinely. This added to the ire of the refugees and to their frustration.

12A.70 Support for this attitude is found in the testimony of two witnesses.

12A.71 Mr. G. K. Handoo, witness No. 48, has in his statement also given an instance where people were stopped at the Jamuna Bridge near Jagadhari on the opposite side of Saharanpur and the Prime Minister's intervention had to be sought to allow them to go to the U.P.

12A.72 Mr. B. B. S. Jetley, witness No. 55, when recalled said that entry of the refugees had been stopped into U.P. because four lakhs of them had already entered and dispersed themselves in two or three districts and created conditions of law and order and of sanitation, and there were large chunks of land in East Punjab which were available for the refugees which could be made available for them if their entry was prohibited. He forgot that all refugees were not agriculturists living on agriculture but they were largely city dwellers living on city avocations. The order to ban the entry of these Hindus into U.P. was, therefore, passed under Section 144 Cr. P.C. and that had the support of the Premier Mr. G. B. Pant. When Mr. Pant went to explain this matter to the Mahatma Mr. Jetley went with him. But he did not say what the Mahatma's reaction was.

12A.73 Mr. Sahni also said that Mahatma Gandhi did a great deal for the Hindus also but he did not realise the enormity of the task of rehabilitation of refugees. The resources required for the rehabilitation of such a large number of people were colossal. Mahatma asked for charity and charity did come but that was wholly inadequate. The refugees, both Hindus and Sikhs, still had faith in Mahatma Gandhi and almost worshipped him but this feeling of confidence and affection for Mahatma was marred by certain events and incidents. They were :

- (1) The blatant wooing of the Muslims by the entire Government not to leave India and to ask the people who had left India to return. The policy, according to Mr. Sahni, might have been right but the effect on the refugees was depressing. The refugees expected that by those people going away, they would be able to rehabilitate themselves in the houses left by them.

- (2) The second matter was the giving of the 55 crores for which pressure was being put on Mahatma Gandhi by Lord Mountbatten about the honour of India which was one of the reasons why Mahatma Gandhi went on fast and made Indian Cabinet reverse its previous decision in regard to that sum.

- (3) The attitude of Muslims throughout India had been such that it led to the creation of Pakistan and the feeling among the Hindus and Sikhs was and a movement had taken shape amongst them that the time had come to join together to protect their rights and liberties and it was assuming a concrete form all over India. The form taken was a Hindu Sangathan movement fostered to make India a land of the Hindus just as the Pakistan was a land of the Muslims. This movement was quite strong in Delhi and also in the Punjab, Rajasthan (Rajputana States) and in the Maharashtrian regions of the Bombay Province. It was also strong in Central India, Bengal and certain areas of U.P. Their idea was that just as Hindus had been forced out of the western part of Pakistan, so the Muslims should also go leaving India as a land of Hindus. This idea according to Mr. Sahni was creating an anti-Muslim feeling and a pro-Hindu Rashtriya movement.

12A.74 The result of all this, according to Mr. Sahni, was that the Hindus considered Mahatma Gandhi an impediment. This became very prominent in the end of 1947 and some sections of the press also became vocal in expressing dissatisfaction and decrying and condemning Gandhiji for taking a very biased and pro-Muslim attitude. Mahatma Gandhi believed that the more he tried to serve the Muslims in India the more secure would the Hindus be in Pakistan and greater would be the harmony between the two countries. But the idea of those Hindu extremists was just the opposite and they believed in tit for tat and held the opinion that the Hindus could not be safe in Pakistan which opinion the refugees fully shared.

12A.75 Mr. Sahni also said that as a consequence of these feelings, both Mahatma Gandhi and Pandit Nehru became targets of the fury of all those who thought that they were going too far in their policy of appeasement of Muslims in India and of the authorities in Pakistan. Sardar Patel and people who thought like him, i.e. Sardar Baldev Singh and Mr. Gadgil, took a more realistic view of the conditions and were not too rigid and according to Mr. Sahni took a practical view of the situation as it existed. There was loose talk of assault on Mahatma Gandhi and Pandit Nehru but not on Lord Mountbatten. Even those who were intimately connected with Pandit Nehru had some concern that proper security measures were not being taken in regard to him. Speeches were being reported from extremist Hindu platforms that Gandhiji was a kind of an impediment and sooner he died the better it would be for the country.

12A.76 Mr. Sahni reiterated that Mahatma Gandhi had undertaken the fast with two objectives—(1) to see that 55 crores were

paid to Pakistan and (2) Hindu-Muslim peace was restored and assured. The former was considered by the extremist elements as an unworthy interference in the administration. Said Mr. Sahni:

"What we felt was that if we were paying Rs. 55 crores we should at least get some guarantee from Pakistan of fulfilment and implementation of other things under the common agreement. It appeared even to us that this was an unfair deal because it was being done without getting any such guarantee from Pakistan."

12A.77 Mr. Sahni further stated that he did hear that people like Dr. N. B. Khare made provocative speeches likely to incite people to violence and other people from Poona also were making similar kind of speeches. He also had a recollection that newspapers in Poona were reporting speeches which were exciting and inciting. Most of them were Marathi newspapers. He learnt this as a member of the Editors Conference. There were, he said, some Punjab papers also which were writing in the same strain and those matters were also reported to the Conference. It was being openly discussed in those days that there were about six lakhs of volunteers forming a part of a secret organisation to stage a *coup d'etat*. This organisation had secret cells in different parts of India—Punjab, Southern India, Maharashtra, etc.

12A.78 Mr. Sahni said that Mahatma Gandhi was misled by his followers who were trying to build up a persecution complex on behalf of Moslems and were giving Mahatma Gandhi a false idea of the affluence of the refugees, their misbehaviour and their living in an extravagant manner and so on. This produced in the minds of the refugees an absolute disgust and made them desperate because it was a false propaganda, and it increased their disappointment and disgust when they found that some Congress leaders were working hard to appease the Muslims absolutely ignoring the essential needs of the vast population of Hindus who had to leave their hearths and homes in West Punjab and other places and were destitute and helpless.

12A.79 In spite of all this, said Mr. Sahni, "the attitude of minds of the Hindus and the Sikhs from the Punjab... could not forget the services which had been rendered to them whenever Hindus and Sikhs were in trouble in the Punjab—Jallianwala Bagh and Guru ka Bagh are examples—and they would rather like to convert Gandhiji and use his influence rather than kill him."

12A.80 Mr. Sahni stated that he never found any anti-refugee feeling in Pandit Nehru, neither in private talks nor otherwise, but the Hindu and Sikh refugees were impressed by the sympathetic efforts which were being made by Sardar Patel, Mr. Gadgil, Sardar Baldev Singh and people of their point of view. Pandit Nehru also was quite sympathetic towards the Hindu refugees but "the fact that along with Maulana Azad, Rafi Ahmed Kidwai and other Muslim colleagues he worked very hard and spared neither money nor time in discouraging Muslim refugees from leaving for Pakistan, preserving their rights to their properties and so forth, created a sense

of hostility among refugees towards him since the refugees generally felt that if they had been thrown out of Pakistan, it should be natural for at least an equal number of Muslims to be allowed to migrate, even though there was no proportion between the millions of wealth Hindu community had left behind and the poorer Muslim community was expected to leave if they migrated. When special police was appointed to preserve their rights even for this property and strong measures were taken including shooting where Hindu refugees were concerned who tried to enter these properties, the sense of resentment became almost blind."

12A.81 Mahatma Gandhi, said Mr. Sahni, "outcongressed the Congress" in appeasing the Muslims and Pakistan. Refugees who came from Western Punjab and N.W.F.P. considered that they were coming to their homeland. But they were treated as unwanted people because the idea of Mahatma Gandhi was that they should return to their original homes. Unfortunately this idea was echoed by lesser leaders who took their cue from the Mahatma and this made the Government very unpopular among the refugees.

12A.82 Mr. Sahni's evidence that Gandhiji sent a secret message indicating that he wanted to go to Pakistan is supported by Pyarelal in his book "Mahatma Gandhi—The Last Phase", Vol. II at page 732, where he has stated that Gandhiji asked him (Pyarelal) to go to Zahid Hussain and ask him whether they would like him to go to Pakistan. But Pakistan was not quite satisfied as to the conduct of the authorities on the Indian side and so reply of Zahid Hussain was, "No, not yet.... but I hope that conditions will change for the better sufficiently before long".

12A.83 The witness's attention was drawn to Pyarelal's "The Last Phase" second volume at page 431 in paragraph 4 but Mr. Sahni's reply was that at no time were the streets of Delhi littered with dead bodies of Hindus or Muslims but there was lot of rioting and killing in certain areas of the old city and the victims were not only Muslims but also Hindus. Continuing Mr. Sahni said that killing in East Punjab was retaliatory in its concept and was not started there.

12A.84 He said that serious differences between Maulana Azad and Sardar Patel existed since 1940. Sardar Patel incurred unpopularity amongst Muslims which started quite early and the matter became worse when Mr. Jinnah came into the limelight. There was talk all the time in the Government for banning communal bodies like R.S.S., Muslim League and the Razakars. There were two groups in the Cabinet, one led by Pandit Nehru and the other by Sardar Patel. Sardar Patel wanted to exploit the R.S.S. in order to get the support of the Hindus just as Maulana Azad, Rajaji and Pandit Nehru wanted to get the support of the Muslims. Due to these differences Sardar Patel threatened to resign not only when the Mahatma undertook the fast but before also. Said Mr. Sahni: "Sardar Patel was very loyal to Mahatma Gandhi and his resignation was not because he had any differences with him (Mahatma Gandhi) but because the Sardar had said that if he had lost Gandhiji's confidence he would resign." Mr. K. B. Reddy drew the attention of Mr. Sahni to page 221 of Maulana Azad's book "India Wins

Freedom" where there is a portion that "Gandhiji should be neutralised." Mr. Sahni said that "appears to be a pure concoction" and that the manner in which the whole paragraph 1 at page 221 had been written in regard to the Sardar was tendentious.

12A.85 Mr. Sahni's attention was then drawn to page 223 of the book as follows:

"Q. Now I draw your attention to Maulana Azad's book, 'India Wins Freedom'—page 223—wherein he has said that Jayaprakash Narayan had accused Sardar Patel that the Home Minister of the Government of India could not escape the responsibility of the assassination of Mahatma Gandhi.

A. I do not remember exactly these words. But I do remember that there was quite a feeling in responsible circles that Government could not escape the responsibility for not having taken proper precautions to avert this tragedy especially after the bomb incident."

12A.86 Mr. Sahni's statement has been analysed at length because it throws a flood of light on the conditions prevailing about the time Mahatma Gandhi was assassinated. He has given a very clear view of the arrival of the refugees, their hopes and expectations, their frustrations and disappointment at the reception they got in what they thought was their "homeland". They had respect and affection for Mahatma Gandhi but this was marred by the attitude of the Congress and Gandhiji's attitude towards the Muslims and their neglect of the needs and aspirations of the Hindus who arrived after having waded through blood, slaughter, repine, rapings and abduction of their women.

12A.87 He has also deposed to the moral pressure of the Governor General that Indian Government should prevent Muslims migrating to Pakistan and that 55 crores should be paid to Pakistan as non-payment would tarnish the honour of India. He also stated that the Hindu and Sikh refugees were not for killing Gandhiji but to convert Gandhiji from his over-zeal for the Muslims.

12A.88 He then deposed to the violent speeches and writings in Marathi press in Maharashtra part of Bombay. But he stated there were similar writings in the Punjab also.

12A.89 He stated that there was a movement led by Golwalkar at Nagpur and Bhopatkar at Poona to stage a *coup d'etat* to take over the Government of India after killing the leaders. There were behind this movement some princes and chieftains like Jaisalmer, Jodhpur, Alwar, Bharatpur, Baroda and Bhopal. And Mahatma's murder was considered as the first step in that direction.

12A.90 He has also deposed about the internal differences in the Cabinet and in the Congress leadership—particularly between Sardar Patel and Maulana Azad and between Pandit Nehru and Sardar Patel. As a matter of fact, Sardar Patel offered to resign as he had lost the confidence of the Mahatma to whom he was devoted.

12A.91 Mr. Sahni also stated that the Government should have had and as a matter of fact did have previous knowledge of the danger to Mahatma's life and a responsible section blamed the Government for negligence and neglect.

Master Tara Singh

12A.92 There was a meeting of the All India States Hindu Mahasabha at Bombay on 29th, 30th November and 1st December, 1947 (Ex. 275-A). One of the speakers at the meeting of 30th Nov. was Master Tara Singh, the Akali leader. He made a spirited speech saying that hundreds and thousands of Sikhs were killed in Punjab by Muslims and still the Government was protecting the interests of Muslims while Hindu and Sikh refugees were dying of cold in Delhi. Gandhiji had no feelings for them. He cared more for the Muslims and he was requesting them not to leave India. He said that the English had left the eternal enmity between Hindus and Muslims. . . . Mr. Jinnah had said that as long as Islam remained they would not allow a single Sikh to live in Pakistan. He (Master Tara Singh) retorted that as long as Hindu Dharma lived, they "shall not allow a single Muslim to live (loud cheers)". Nowadays, he said, many Muslims were calling themselves nationalists but no Musalman could ever be a true Hind-loving man. He would always be a Muslim at heart although he might pretend to be a nationalist. He added that they would allow all religions to continue to live in India but they could not allow "their necks to be cut by Musalmans". He wanted all Musalmans to be sent to Pakistan.

12A.93 Mr. Savarkar also at that meeting drew the attention of the public to the danger from Muslims who were joining the Congress. "How could a Muslim Leaguer become a nationalist overnight." The Musalmans wanted to create another Pakistan in India. He said that Rajajis were their next enemy and that Congress repressive policy towards the Hindus would rouse "Hindutva" in the hearts of the masses.

12A.94 This evidence shows that:

- (1) The partition brought into Delhi a large number of Hindu and Sikh refugees who had to emigrate from Pakistan both before and after the partition.
- (2) They came to India with great hopes of welcome and rehabilitation but the attitude of Congressmen and of Mahatma Gandhi disappointed them and they were extremely angry, frustrated and exasperated.
- (3) Although they had full faith in Gandhiji but this faith was largely eroded by Mahatma's solicitude for the Moslems who had brought about the partition and the advice to them to go back to their homes made them angrier.
- (4) Even with all this anger and anguish, their attitude was not one of violence towards the Mahatma even though they were raising all kinds of slogans expressing their extreme disappointment and dolour and soreness.
- (5) There was amongst a large number of Hindus, particularly the Hindu Mahasabha, a strong feeling against Mr. Gandhi

for his fast to coerce the payment of 55 crores and appeasement of Moslems, and neglect of dishonoured, disheartened, pillaged, robbed and homeless Hindus—the refugees from Pakistan.

- (6) Besides this there were riotous scenes between religious communities in Delhi and its environs which led to murders on the streets of old Delhi.
- (7) There was moral pressure from Lord Mountbatten and the complaints of Maulanas which made the Mahatma resort to the fast. This made the Hindus angrier still.
- (8) The extreme Hindu elements of the South particularly of Poona compendiously called Savarkarites became more and more infuriated against the Mahatma and the more extreme elements from amongst them were led to the extreme step of personal violence against the Mahatma.
- (9) There was a split in the Central Cabinet in which Sardar Patel was on one side and Pandit Nehru and Maulana Azad on the other; so much so that it reached the stage of Sardar Patel's resignation sent to the Mahatma because Sardar thought that he had lost the Mahatma's confidence.
- (10) Mahatma Gandhi's presence and fast did restore communal peace in Delhi but the hearts of some of the extreme Savarkarites were bent on Mahatma's removal by violence.
- (11) The causes which led to the murder of the Mahatma was the Congress appeasement of Moslems, neglect of Hindu refugees, his going on fast and giving of 55 crores.

B—What was Happening in Delhi After The Bomb Was Thrown

12B.1 There are weekly intelligence abstracts of Delhi Police and Daily C.I.D. reports of Delhi Police showing the activities of various political bodies in Delhi.

12B.2 Ex. 135 dated January 24, 1948, is the weekly intelligence abstract of Delhi Police. It mentioned under the heading 'general' about the relief which people had felt at the giving up of the fast by Mahatma Gandhi but the orthodox Hindu sections declined to be a party to the seven point peace pledge. The explosion at Birla House was considered to be the index of seething unrest prevailing amongst the masses against the Gandhian ideology and an immediate revision of the Government's policy towards the Muslims was demanded.

12B.3 Under the heading *Hindu Affairs* an account of the meeting held on January 18, 1948 is given. At the meeting were present the late Dr. Sir Gokal Chand Narang, a former Minister of the Punjab, Professor Ram Singh, L. C. Rai, Desh Bandhu Gupta, Ram Saran of Lahore and Kesho Ram. The meeting expressed indignation over the payment of 55 crores to Pakistan. Dr. Gokal Chand described Mahatma Gandhi's fast to be helpful to the Muslims to be

able to get more value for their property and that the Mahatmajī was playing into the hands of Maulana Azad to help Pakistan. Professor Ram Singh said that the fast proved helpful in ridiculing the Hindus and Sikhs all over the world. Kesho Ram characterised Mahatma Gandhi as a dictator and said that he might meet the fate of Hitler soon. (Italics are by the Commission.)

12B.4 Under the Sikh Affairs, there is an account of meeting at which one of the speakers said that the Muslims could never be loyal to India.

12B.5 Under the heading 'Muslims', an account is given of two meetings on the 19th and 23rd January recognising the selfless services of Mahatma Gandhi.

12B.6 At the Congress meetings, emphasis was laid on maintaining communal harmony and Mr. Brahm Prakash denounced the activities of the R.S.S.

12B.7 The socialists criticised the Deputy Prime Minister for being anti-socialist.

12B.8 Under the heading 'Miscellaneous' the incident of Madanlal causing an explosion at the time of the prayer meeting is mentioned. It is also stated that nobody was injured and the accused was arrested red-handed. This appears to be tone down account of Madanlal episode, almost innocuous.

12B.9 In Ex. 136, which is another abstract of intelligence of Delhi Police and is dated January 31, 1948, under the heading 'general' reference is made to the dastardly murder of Mahatma Gandhi which had caused indignation amongst the public excepting a small section of the orthodox Hindus who were feeling jubilant over it. (Italics are by the Commission.)

12B.10 Under the heading 'Hindu Affairs', it was stated that the orthodox Hindus were criticising the Congress for their policy of appeasement. V. G. Deshpande, Mahant Digvijay Nath and Professor Ram Singh at a meeting held on 27th at the Connaught Place under the auspices of the Delhi Provincial Hindu Sabha said that Mahatma Gandhi's attitude had strengthened the hands of Pakistanis. They criticised the communal policy of the Government of India and the measures taken by the Mahatma to coerce Indian Cabinet to pay 55 crores to Pakistan. Mahant Digvijay Nath exhorted the gathering to turn out Mahatma Gandhi and other anti-Hindu elements. Professor Ram Singh also opposed the Mahatma's policies. Resolutions were passed condemning payment of 55 crores and in regard to Kashmir. Shouts of 'Long Live Madanlal' were raised. Besides this, there were other slogans. The Hindu Mahasabha condemned the fast of Mahatma Gandhi, the payment of 55 crores, the seven point peace pledge and those members of the Hindu Mahasabha who had signed the peace pledge.

12B.11 The socialists had decided to mobilise public opinion in support of a demand for a new Cabinet. Mr. J. P. Narayan at a

private meeting held on the 31st, accused the police for inadequate arrangements culminating in the assassination of Gandhiji and they had therefore decided to carry on propaganda for suppression of communalism.

12B.12 The C.I.D. report, dated January 27, 1948, Ex. 137, also gives an account of the meeting which was held on the 27th under the auspices of the Delhi Provincial Hindu Sabha to which reference has already been made in a previous document, Ex. 136. In this document the proceedings are described at a greater length. It emphasised the raising of the slogan "Madanlal Long Live".

12B.13 After the meeting (of 27th January) was held, the Chief Commissioner, Sahibzada Khurshid, in a confidential communication, Ex. 143(1) dated January 30, 1948 pointed out to the D.I.G. that the Deputy Commissioner had said that he had not given any permission for the meeting to be held and he would like to know as to how the meeting was allowed to be held. If the police did not know that such a meeting was to be held then the intelligence was extremely bad and the Superintendent of Police is really unfit to hold this job and if the police knew that the meeting was going to be held and still they did not take any action to prevent it, the police officers were guilty of gross dereliction of duty. The Chief Commissioner wanted to have a report in regard to the matter so that he could take the matter up with the Ministry of Home Affairs.

12B.14 The D.I.G. had recommended the detention of Mr. V. G. Deshpande and Prof. Ram Singh, two Mahasabha leaders who had participated in the meeting of the 27th January, but the Chief Commissioner considered one month's detention inadequate and his opinion was that people should be prosecuted for defiance of orders.

12B.15 On February 3, 1948, (Ex. 143) Mr. R. N. Bannerjee wrote to the Chief Commissioner saying that Government agreed that a meeting in defiance of the orders under section 144 should not have been allowed to be held and advised that persons guilty of breach of the prohibitory order should be prosecuted.

12B.16 It appears that the explanation was called of the Superintendent of Police, New Delhi, and of Deputy Superintendent Jaswant Singh. Their respective explanations are Exs. 82 dated 11th February 1948 and 83 also of the same date.

12B.17 The explanation of Dy. Supdt. Jaswant Singh was that the Inspector incharge of Parliament Street Police Station had told him that there was no information about the meeting and he heard about it at 4-30 p.m. and reached the place with a guard and on inquiry the Hindu Mahasabha people said that they had obtained permission of the District Magistrate which was later on found to be incorrect. As the meeting was in progress and large number of audience was present, it was considered inadvisable to disperse the meeting hence no action was taken and action was 'now' being taken under section 188 I.P.C. i.e. prosecutions were to be started. The report of Police Superintendent A. N. Bhatia, Ex. 82, was on similar lines and it added that the Hindu Mahasabha people had stated that the permission had been applied for and obtained. When the police

insisted on being shown the permission, the Hindu Mahasabha people said that it would be shown shortly but no permission was shown. In the meantime the audience had swelled to more than two thousand and necessary precautions were taken to prevent any breach of peace but in view of the crowd, it was thought inadvisable to disperse the meeting. The explanation further said that the application to hold the meeting was presented by the Delhi Provincial Hindu Mahasabha on the 26th of January which was received by the police after the meeting had been held, and that those who are guilty of breach of the order would be prosecuted under the law. The explanations of Superintendent Bhatia and of Dy. Superintendent Jaswant Singh were forwarded to the Chief Commissioner by the D.I.G., Mr. D. W. Mehra, who added a note Ex. 143(3) dated February 15, 1948 that the application had been forwarded by the District Magistrate to him and his (D.I.G.'s) reply was that permission might be given if the Hindu Mahasabha gave an undertaking to be moderate in their speeches, which indeed is an astonishing rider by a D.I.G. who should have known the conditions in Delhi better. The record does not show what had happened to the application but it was received in the D.I.G.'s office on 29th of January after the meeting had been held.

12B.18 Mr. Mehra pointed out that the Superintendent of Police had no intimation of the meeting excepting on the 27th January at 4-30 p.m. when a number of people were seen at the place. The Parliament Street Police officer reached the spot with a small posse of police and was assured by the Mahasabha leaders that the permission of the District Magistrate had been obtained which was clearly false and when the Inspector insisted on showing the permission, it was not produced. By that time the crowd had become two thousand and it was inadvisable to disperse the crowd. He added further, as an excuse, that a number of meetings had been held for the purposes of preaching communal unity so as to enable Mahatma Gandhi to break his fast—implication being that the other meetings having been held without permission why not this one. He added that in his opinion, New Delhi Police was guilty of error of judgment and necessary action would be taken against the officer concerned and that a case had been registered under section 19 of the Punjab Public Safety Act against the conveners.

12B.19 Ex. 143(4) is a letter by Mr. Bannerjee to the Chief Commissioner dated February 17, 1948, in which he asked whether the meeting of Mr. Jayaprakash Narayan in Connaught Place on February 4 was in defiance of the orders under section 144 and if so, it showed that the police were either not vigilant or connived at such breaches of the law and Government wanted that this laxity should be put down strongly. It also added that the slogans "Long Live Madanlal" which were shouted at the 27th January meeting should have been brought to the notice of the Government immediately; and that effective arrangements should be made for full reporting of objectionable speeches which should be scrutinised by the District Magistrate and by the Chief Commissioner and forwarded to the Home Ministry.

12B.20 Ex. 143(5) dated 23rd February, 1948, is another letter by Mr. Bannerjee to the Chief Commissioner, regarding the defiance

of the Governmental prohibitory order and the holding of the meeting on the 27th. It mentioned that ordinarily the District Magistrate should have refused the application for holding the meeting immediately and the police should have been informed of the District Magistrate's order. It was to be noted that atmosphere following the bomb outrage at the Birla House on the 20th January was certainly surcharged and it was difficult to follow why there should have been any hesitation in rejecting the application for holding the meeting. To this the Chief Commissioner replied on 11th March, 1948, Ex. 143(6), in which it was said that condolence meetings were being held in connection with the death of Mahatma Gandhi and that when the meeting of the 27th had started, it was difficult to disperse it and it also said that Mehra was taking disciplinary action against the police officers who failed to do their duty in not dispersing the meeting.

12B.21 There is a letter dated March 11, 1948, Ex. 143(8) from the Chief Commissioner to Mr. Bannerjee in which it is stated that Mehra acted unwisely in suggesting that permission should be given if the leaders gave an undertaking not to make intemperate speeches. The letter also mentioned the letter of the Chief Commissioner to Mehra that the meeting should have been dispersed and it also mentioned that disciplinary action was being taken against those officers. It suggested that Randhawa may be told that he acted indiscreetly in not rejecting the application for meeting forthwith. Mr. Randhawa on March 8, 1948, Ex. 143(9), gave his explanation referring to what the D.I.G. had advised him and added that no undertaking was given and no permission was granted, and that it was the duty of the Superintendent of Police, New Delhi to have satisfied himself whether any permission had been granted.

12B.22 On March 23, 1948, Ex. 143(11) the Government of India expressed its disapproval of the action of Mr. Randhawa who in its opinion acted indiscreetly by not rejecting the application forthwith.

12B.23 The Commission is of the opinion that the opinion of the Chief Commissioner was right and the meeting should not have been allowed to be held. It is difficult to accept the excuse that the police came to know about the proposed meeting at 4-30 P.M. when people began gathering. Public meetings are not called at the spur of the moment and this one had been applied for a day earlier and must have been advertised earlier. It is demonstrative of police incompetence or lethargy if not complacence.

12B.24 Ex. 143(12) dated 9th February, 1948 is the Chief Commissioner's fortnightly report for the fortnight ending 2nd half of January, 1948. It is more or less reiteration of what is already contained in the police fortnightly reports.

12B.25 On January 21, 1948 when Mr. Sahni attended the prayer meeting, he found security men there but he could not say how many they were but in his opinion in a gathering like that anything could have happened unless everyone who went there was checked. The Mahatma, he said, was not afraid of death and could stand in

the line of the trajectory of a bullet if it was directed against him. This he did at Calcutta with a lantern in hand when he was threatened with death.

12B.26 The Commission might add that one of the greatest and most well deserved tributes paid to the Mahatma was by the late Hon'ble Dr. Khan Sahib, Premier of the N.W.F.P. who said in a speech at Peshawar that the bravest man he had met was Mahatma Gandhi who was never afraid of death and was never afraid of doing what he thought was right irrespective of its danger to his life.

C—Political Conditions in Delhi

12C.1 According to Miss Maniben Patel's diary, Ex. 273, the relations between Pandit Nehru and Sardar Patel and Maulana Azad were not happy but after the murder of Mahatma Gandhi Mr. Nehru wrote a confidential letter dated 4th February 1948 saying that now that Mahatma Gandhi was dead, they should work in co-operation. On 24th February 1948 Maulana Azad came and said "Gone is gone, all should work together"..... "Sardar said that neither Maulana nor Jawaharlal wanted him. He will remain outside. Maulana did not refute this". On 25th February 1948 Jayaprakash Narayan met G. D. Birla and said to him that there were differences between Jawaharlalji and Sardar. Jawaharlalji wanted Mahajan to go from Kashmir Diwanship and Sardar did not want this.

12C.2 On March 2, 1948 the entry is rather revealing:

"Devdasbhai came at 8-30 P.M.

.... Sardar talked: "I have never talked to you. But there were efforts to drop me out since three months before Gandhi's death. Even socialists, Maulana were involved in it. Bapoo (Gandhijee) said to me at that time, "You both are unable to cope up with each other and there are no chances of it being so even in future. One of the two should be taken in. Looking to your popularity at present you should be raised". I said "No" and added that this was a useless talk. Jawaharlaljee is younger than I. He enjoys an international fame and moreover these people are propagating that I am bent upon turning them out. Such a step will only confirm their propaganda.

"Once Jawaharlal had gathered four or five Maulanas before Bapoojee (Gandhijee) including Maulana Hafiz-ul-Rahman. Hafiz-ul-Rahman started talking tall. I said, "Tell me in specific terms and I shall search". I will change people if something is proved. But I shall not remove anybody on the basis of vague charges. In fact their real intention was to remove Randhawa. Even Bapoojee (Gandhijee) had said that to talk to remove the Chief Commissioner is a useless talk....and if there is something more then give in writing to Sardar.

"Then there was a storm in Ajmer. H. V. Iyengar was sent direct without consulting me. Then I wrote to them that such interference by sending officers directly without consulting me is not proper. Upon this he wrote, "I cannot abdicate my functions?" All this was going on while Bapoo's fast came in between. Those people had decided to take in Jayaprakash removing me.

"This 55 crores episode pinched me much. This 55 crores was paid and Bapoojee's (Gandhijee's) murder was a result of this.

"I was present at the last meals (before taking to fast). While taking meals the issue came up. I said the Viceroy had a talk with you regarding 55 crore affair and told that it was dishonourable. Then he should have told this to me.

"Jawaharlaljee said in the Assembly, "We are not going to provide sinews of war". I made a statement in the Assembly only on the next day.

"I went to the Viceroy from Bapoojee, and asked him that he told Bapoo (Gandhijee) that it was dishonourable. You have thus let down the Cabinet. Sardar showed all the papers to Mountbatten. Later on he apologised. Panditjee said it is 'petty-fogging'. I said in the Cabinet that we should agree to pay 55 crores. But I am to stay no longer. I am under intoxication either of age or of power. Therefore I do not want to stay in the Cabinet any longer.

"Later on I wrote a letter to Bapoojee on the next day before going to Bombay that I should be relieved. Even Maulana does not want me.

"I had talks with Gandhijee even on the last day. At that time Bapoojee told me that it is not possible to pull on with either of you. Both of you should remain. Tomorrow we shall clarify everything when we meet.

"Jawaharlaljee wrote a letter to me two or three days after returning from Rajghat. The letter was a nice letter saying that 'gone is gone' and we should work together forgetting the past. I too wrote to him a good letter.

"But on the other hand Jayaprakash started attacking in open Public Meeting. There Achyut declared 'today it is high time that Jayaprakash should be taken in after removing Sardar'.

"Later on Jawaharlaljee scolded Jayaprakash in the Party meeting. But he did not want that this should come in the newspapers. Therefore issue contradiction in newspapers.

"My Lucknow speech was not relished by Hafiz-ul-Rahman. He twisted that in his newspaper, and attacked it strongly.

"Maulana came to me in office with a letter of appointment three or four days after this and asked me to forget the past and work in a team spirit. I told him that he and Jawaharlaljee had decided to remove me. But he did not contradict it.

"Your Brajkrishan and Aruna are also in league.

"Now Jayaprakash has started attacking me in Bombay and Soorat."

12C.3 On March 5, 1948 Sardar got a heart attack and the entry on the 6th March was "Sardar was affected by propaganda against him. His eyes were full of tears".

12C.4 The *Times of India* dated 18th February, 1948, Ex. 242, reported a speech of Jayaprakash Narayan at Patna on February 15 where he said that he was not a believer in fate and was convinced that if the prominent Congress Ministers had not patronised and attended R.S.S. rallies and had warned the youth of the country really against joining the organisation... Mahatma Gandhi would never have been taken away. He also accused the officials of attempting to blanket the criminal and sabotage any effort made to unearth the conspiracy and added if he desired he would have got any portfolio and he was not saying all that because he wanted a Cabinet post.

12C.5 It appears that the Ministry of Home Affairs took objection to the meeting held on 4th February, 1948 which was addressed by Mr. Jayaprakash Narayan. It said that it was clear that the police were either insufficiently energetic or were conniving at it. This was most reprehensible and strong warning should be given to the local administration not to permit such defiance of prohibitory orders. This communication was under the signatures of Mr. V. Shankar and is dated February 6, 1948.

12C.6 According to the report in *Bombay Chronicle* of February 4, 1948, Ex. 241, Mr. Jayaprakash Narayan at a press conference on Mahatma Gandhi's death said:

"We are prepared to take up any responsibility to deal with this crisis—any kind of responsibility whether in the Working Committee of the Congress or in the Government or anywhere else."

12C.7 Some socialist leaders like Mr. Jayaprakash Narayan, Dr. Ram Manohar Lohia and Mrs. Kamaladevi Chattopadhyaya issued a statement at a press conference in which they said that "the assassin was not one person but there was a wide conspiracy and organisation behind it. They laid blame on the Hindu Mahasabha, R.S.S. and the Muslim League and such like bodies for the assassination of Mahatma Gandhi. They accused the Government of not protecting the Mahatma against a 'prowling assassin'. They then asked for reconstitution of the Government and demanded that the Home Ministry must be entrusted to a person who will have no other portfolio and who will be able to curb the cult and organisations of

communal hate and there should be no place for communalists in the reconstituted government and, in particular, the Home Minister must push through at top-speed the programme of purifying Government services of all communal elements and of educating them into a national citizenship".

12C.8 Mr. Jayaprakash Narayan then said that a man of 74 had departments of which even a man of 30 would probably find it difficult to bear the burden. He said that there was too much burden on the Home Minister but added as a suffix that he was not censuring him.

12C.9 According to the *Times of India*, dated February 18, 1948, Ex. 242, Mr. Jayaprakash Narayan said that the people should not distrust the campaign that he had undertaken to draw pointed attention to the weakness of the Central administration:

"He had nothing to benefit personally, he said, from a frank and free criticism and an over-all estimation of the events leading up to Mahatma Gandhi's assassination. He was no believer in fate and was convinced that, if prominent Congress Ministers had not patronised and attended R.S.S. rallies and had warned the youth of the country clearly against joining the organisation and provided other suitable outlets for their energies, Mahatma Gandhi would never have been taken away from us when we most needed him.

"Even after the bomb was thrown at him during the prayer meeting no strong action was taken, but instead attempts were made to blanket the criminals by officials within the administration, who sabotaged any effort that might have been made to unearth the conspiracy."

12C.10 Mr. Jayaprakash Narayan then said that it was wrong that he desired a Cabinet portfolio which he had refused several times. He said that he was also taunted for having exaggerated the differences between Pandit Nehru and Sardar Patel but he had only mentioned them with the intention of clearing the atmosphere of rumours. He had ideological differences with Sardar Patel but he used to meet him quite often.

12C.11 He criticised the Government for having spokesmen of big businessmen included in the Cabinet. He wanted the communalists and communal saboteurs to be replaced by democratic minded nationalists.

12C.12 In the "*Bombay Chronicle*" of February 28, 1948, Ex. 243, is given a report of a speech of Mr. Jayaprakash Narayan at Bombay where he demanded the resignation of Dr. Shyama Prasad Mookerjee, Mr. R. K. Shanmukham Chetty, Sardar Baldev Singh and Mr. C. H. Bhabha. He blamed the Central Cabinet for encouraging communal organisations in the country which resulted in Gandhiji's murder and demanded the banning of communal organisations. He said that he did not demand that the socialists should be included in the Cabinet but there were a number of nationalists who could be

there and the portfolio of Information and Broadcasting should be separated from that of Home otherwise it will result in dictatorship. He said that he was not against Sardar but he wanted a man who was free from communalism to be incharge of Home Department.

12C.13 This was a strong condemnation of Sardar Patel with a charge of communalism added to other charges.

12C.14 Miss Maniben Patel deposed before the Commission that Mr. Jayaprakash Narayan and the Socialists were anxious to have Sardar Patel removed.

12C.15 This evidence shows that two parties, the Hindu Mahasabha and the Socialists had held meetings in defiance of the prohibitory order under S. 144 Cr. P.C. The former criticised the Congress for pandering to the Muslims and condemned the giving of Rs. 55 crores at the instance of Mahatma Gandhi and also criticised him for helping the Muslims. The latter were after Sardar Patel's head and wanted him and the non-Congress elements in the Cabinet to make an exit. But both the Hindu Mahasabhaitees and the Jayaprakash Narayan socialists were endeavouring to achieve their objective by defiance of the prohibitory order, thereby showing little regard for legal processes.

12C.16 The Commission is not called upon to pronounce on the propriety or otherwise of the two opposite views expressed, but it cannot help remarking that meetings in defiance of the prohibitory orders showed an utter lack of regard for lawful orders promulgated and the shouts of "MADANLAL ZINDABAD" (Long Live Madanlal) showed a lamentable lapse on the part of the conveners of the Hindu Mahasabha meeting of the 27th January and comparison of Mahatma Gandhi to Hitler with prediction of meeting a similar fate cannot be termed political innocuousness but clearly showed violent illwill.

12C.17 The protective measures and security arrangements at Birla House have been set out in this chapter and many suggestions were made as to what should have been done. What was done was the increase in the number of policemen stationed at Birla House and the deployment of plain clothes policemen in Birla House for the purposes of watching persons attending the prayer meetings. By witnesses who should know, like Mr. M. K. Sinha, Mr. B. B. S. Jetley and Mr. G. K. Handoo who were senior police officers, these arrangements have been termed inadequate and a pattern of protective measures was suggested by Mr. G. K. Handoo in his statement. As has been said at another place, it would be highly speculative to say that those measures would have been sufficient to give proper protection.

12C.18 The Commission has set out the complexity of the problem, the fearlessness and utter disregard for his own life by Mahatma Gandhi and the genuine desire of people to come to his prayer meeting not only to have a darshan of the Mahatma but also

to touch his feet for achieving religious merit. In these circumstances, to devise any foolproof means of protection might have been very difficult but, in the opinion of the Commission, what was suggested in his statement by Mr. Handoo was worth trying and because its success was a matter of speculation was no valid reason for not attempting it and it was a mistake not to have tried it.

12C.19 Further, the evidence of police witnesses that Bombay police from Poona should have been called, is based on good commonsense and the Commission is of the view that that should also have been done although according to Mr. D. W. Mehra, witness No. 23, and Mr. U. H. Rana, witness No. 3, both D.I.Gs., it would have been inefficacious. With this view the Commission does not agree. Efficacious or not may be conjectural and was in the lap of gods but it was one of the precautions which ordinary prudence required that it should have been taken.

12C.20 The holding of meetings or allowing meetings to be held, which were in contravention of prohibitory orders, shows how little regard political parties including the Hindu Mahasabha and the Socialists had for lawfully promulgated orders but meeting of the Hindu Mahasabha which was held on the 27th January showed how ineffective the police itself was. It either did not know that permission had not been obtained by the sponsors of the meeting or it did not care. In either case, one cannot compliment it on its efficiency.

12C.21 The evidence of Mr. Bannerjee shows that the Administration was not at its best after the Partition and many things which ordinarily should have happened did not happen, like Weekly Conferences. So also important events, such as the attempted murder of Mahatma Gandhi on the 20th January, was reported neither to the District Magistrate nor to the Home Secretary nor does it appear that either of them tried to get any reports.

12C.22 It would be fair to add that the conditions in Delhi from after the Partition right upto the time the fast was undertaken were most disturbed and disturbing. There were Hindu-Muslim riots in the old city and there were disturbances even in the area round about the city. According to Mr. V. Shankar, witness No. 10, the time of the District Magistrate was mostly taken up with the law and order problems, and Mr. M. S. Randhawa who was then the District Magistrate, has also emphasised this aspect of the state of affairs in the Capital. When the statement of Mr. V. Shankar was read out to him he agreed with it and added:

"I would like to add that a number of murders were taking place in the city due to communal tensions. As a matter of fact when I took charge of the District and I was counting the treasury every ten minutes I would get a message that somebody or other was murdered in the city. That shows how grave the situation was. The situation was so grave and dangerous that when I went out in the evening on my rounds I was never sure that I would get back home alive or uninjured."

12C.23 This shows that not only the police administration was disorganised at the time due to the Partition and communal disturbances but even the civil administration of the District had a tremendous burden put upon it to keep law and order in the city as well as areas round the city. The conditions were so disturbed that two officers were killed, one of them was a member of the Indian Civil Service who was a Special Magistrate in Delhi, and the other an army officer. Coincidentally they were both named Mishra.

12C.24 The R.S.S. has been discussed in a separate chapter along with the Hindu Mahasabha and Hindu Rashtra Dal but Mr. Banerjee's evidence in regard to this organisation and also that of Mr. Morarji Desai and other witnesses had again been given here because, in the opinion of the Commission, that is part of the general conditions prevailing in Delhi. The evidence of Mr. R. N. Bannerjee is that the R.S.S. as a body were not responsible for the bomb throwing or for the murder of Mahatma Gandhi nor were the conspirators acting in their capacity as members of the organisation. As a matter of fact, the principal accused who have been shown to be members of the Hindu Mahasabha belonged to the Rashtra Dal organisation which was a distinct Savarkarite organisation. It has not been proved that they were members of the R.S.S. which shows that they were believers in a more violent form of activities than mere parades, rallies, physical exercises and even shooting practices.

12C.25 There is no proof that any of the ministers or any of the officers of the Government were patronising or attending R.S.S. rallies and this charge made against them, on the evidence which has been put before the Commission, is not established. Commission is not concerned with the demand for resignation of non-Congress leaders of India who had been drafted by the consent of all parties into the Central Cabinet after independence was achieved, the object being to have a national Government rather than merely a party Government.

12C.26 The political conditions were not quite happy. There was want of cordiality between Pandit Nehru and Sardar Patel and between Sardar Patel and Maulana Azad. As a matter of fact, Sardar Patel and Maulana Azad had not been getting on well with each other since 1940 and perhaps from earlier days.

12C.27 And Rafisaheb also had his differences with Sardar Patel, and this cleavage in the Cabinet some time became very serious so much so that Sardar Patel sent in his resignation to Mahatma Gandhi requesting him to let him get out of the Cabinet. The seriousness of these differences has been brought out in Pyarelal's book "Mahatma Gandhi—The Last Phase" Vol. II at page 721 and also in Miss Maniben Patel's diary of January 25, 1948 and of March 2, 1948 where a fuller account is given showing what moves were being made and how the cleavage was widening. These differences were partly patched up after the assassination of Mahatma Gandhi. This shows that the Cabinet was divided on some vital matters. Mr. J. N. Sahni has stated that Sardar did not want to lose the sympathy of the Hindus because the other party were trying to get assistance of the Muslims. That may be representative of the different approach to national

problems the propriety of which is not for the Commission to judge but it only proves that there were differences in the Cabinet at the time which were a continuation of differences in the Congress itself and its Working Committee.

12C.28 The Socialists for some reason did not like Sardar Patel whose pragmatic approach to problems was not to their liking. Sardar Patel, Sardar Baldev Singh and Mr. N. V. Gadgil and people of that way of thinking had serious differences with the other section of the Cabinet, Pandit Nehru and Maulana Azad and Rafi Ahmad Kidwai. One of the reasons of this cleavage appears to have been the handling of Kashmir affairs and another the anxiety on the part of the former not to lose the sympathy of the Hindus and Sikhs in general and particularly of the refugees who had come from Pakistan and the insistence of the latter to keep the sympathies of the Muslims in India by not allowing the refugees to oust them from their homes. By itself it might have been a laudable objective but in the conditions that were then prevalent, the refugees were not prepared to accept the propriety of that logic or its reasonableness. They could not see why the very people whose approach to Pakistan had made them homeless and had exposed them to indignities of all kinds should get the best of both the worlds and they, whose sacrifices had made it possible for India to achieve independence, should be treated as undesirable outsiders if not aliens.

12C.29 Commission does not accept the view that Prime Minister Nehru or any of the ministers were against or unsympathetic to the incoming refugees from Pakistan and the evidence given by Mr. J. N. Sahni on this point correctly represents the state of mind of Mr. Nehru but that was not what the refugees believed; and when Mahatma Gandhi also made post prayer speeches indicative of want of sympathy for them it exasperated them against Mahatma Gandhi because for them Congress was Mahatma Gandhi and Mahatma Gandhi was Congress. They got still more exasperated when they came to know that the Mahatma wanted them to go back to their homes which they were not prepared to do under any circumstance whatever be the sacrifice required. They knew exactly what had happened to them and they anticipated no different treatment at the hand of the Pakistan authorities and people. The doings of the *mujahids*, the Razakars, the Khaksars and the League volunteers and the attitude of the officials and others did not predicate a pleasant welcome for them and, therefore, they insisted that the Muslims should go to their homeland as they had come to theirs. Whether this attitude of mind was right or wrong is not for this Commission to decide but this was the attitude of the refugees, which got further exasperated by the fast of Mahatma Gandhi and the giving of the 55 crores to Pakistan which, in the opinion of Hindus, was an atrocious thing to do because that money was not only likely but sure to be used for the purpose of fighting against the Indian Army which had been sent to protect the indefensible Kashmir at a time when there was nothing to stop the on rush of Pakistani army to forcibly capture the fair valley of Kashmir except the bravery of the Indian Jawan.

D—Statement of Officers of The Home Ministry

12D.1 The Commission proposes to give a fuller account from the statements of principal witnesses who at the time were connected with the Home Ministry. Those witnesses were Mr. V. Shankar, I.C.S., Private Secretary of Sardar Patel, Mr. R. N. Bannerjee, I.C.S., Secretary of the Ministry of Home Affairs, Miss Maniben Patel, M.P. daughter of Sardar Patel.

Mr. V. Shankar, Wit. 1(P), Wit. 10(K)

12D.2 Mr. V. Shankar, I.C.S., witness No. 10, was at the relevant time Private Secretary to the Home Minister. He was witness No. 1 before Mr. Pathak. He stated that from the intelligence reports as well as from the discussions between the Bombay Premier and the Home Minister, the Sardar knew "that there was a move to assassinate Mahatma Gandhi and also that perhaps the centre of that movement was at Poona", but the witness did not know about any particular individual who had given that information. At that time there were rumours and suspicions of a vague nature but the bomb incident was the first concrete piece of evidence on which action could be taken.

12D.3 Sardar Patel's *modus operandi* in dealing with cases of this kind was this. He used to hold personal discussions with Intelligence people in Delhi and Intelligence authorities in the Provinces and also with Premiers and Home Ministers of those Provinces. Also when he visited the Provinces he used to discuss these matters generally with the Premiers and Home Ministers concerned. The main executive agency was the Provincial Governments but the Sardar used to give them advice where the Intelligence Bureau could be of assistance.

12D.4 At the time of the bomb incident the Sardar was at Ahmedabad. There he met Mr. Kher and Mr. Morarji Desai. In paragraph 7 he stated that so far as the conspiracy was concerned the action used to be taken by the Government of Bombay either on their own initiative or on seeking instructions or on getting instructions from the Sardar. There was a close contact between the Central Intelligence and the Bombay Special Police and the D.I.B. used to seek instructions from the Sardar where necessary. He said: "The general line, as far as I remember, in this case was to investigate the truth or otherwise of any information that was coming to the notice either of the Government of India or of the Government of Bombay and to pursue or drop it, as the case may be, on the completion of the investigation. I know that during this period all sort of rumours were prevailing and naturally the police had to screen the information that came to their notice and took action when it was warranted."

12D.5 The general instructions were that the suspects "should be particularly kept under watch" and the first concrete evidence on the basis of which any effective action could be taken was the confessional statement of Madanlal. Before that there were only rumours. The Sardar, Mr. Kher and Mr. Morarji Desai knew that there was a conspiracy but not as to who was in it. Even a man like Mr. N. C. Kelkar was being mentioned.

12D.6 Details of the measures taken for the protection of Gandhiji were stated in reply to a question by Mr. Ananthasayanam Ayyangar in the Constituent Assembly, Ex. 142. They consisted in increasing the strength of the police at Birla House and a request by police to search every visitor who went to the prayer meeting. The Sardar said that he himself pleaded with Mahatma Gandhi to allow the police to do its duty by searching the visitors but the Mahatma did not agree saying that his life was in the hands of God and if he had to die no precaution would save him.

12D.7 In reply to supplementary questions Sardar said that it was inadvisable to disclose all the facts under investigation but he could say that an officer was sent to Bombay immediately after the arrest of Madanlal who took a copy of his statement to the Bombay C.I.D. As a result of their discussion it was thought expedient that some persons might be arrested but it was inadvisable to arrest them all immediately as that would give a hint to the other conspirators who would thus go underground. "Therefore, both the Bombay Police and the Delhi C.I.D. after consultation, came to the conclusion that the conspiracy should be pursued and a little more time might be taken. It is also true that they were on the track of these people, but they were not all in Bombay."

12D.8 A further question was put whether it was not possible for the Delhi C.I.D. to procure photographs of the assassins from Bombay and whether it was not correct that the persons arrested (Madanlal) had given out the name of the assassin to be and whether those photographs could be supplied to the police in order to identify the assassin and arrest him in time. The reply to this question was that the Delhi Police did, in pursuance of the information received, try to trace these people but they were not all in one place and it was not possible to take photographs of the people who were not in Bombay. When asked if the Bombay Police had informed the Government that a desperate chapter had left Bombay in pursuance of the conspiracy, the answer was in the negative.

12D.9 As far as the witness's recollection went, Government knew of the existence of a set of people who felt that the tragedy which had overtaken the Hindus and Sikhs of Punjab and Hindus of Bengal had its root in the partition of the country which was a consequence of the appeasement policy of Muslims followed by the Congress for a number of years the main inspiration of which was Gandhiji. According to the witness, the Kesari school of thought in Poona was openly expressing this view and that was the view of some of the refugees who were in Delhi and East Punjab and in this there was a certain amount of political and religious rivalry involved. It had not assumed such a serious form which could have culminated in political assassination until after Gandhiji's fast. The atmosphere thereafter was surcharged with hatred of Pakistan which was augmented by what happened in Kashmir. The main issue engaging public attention at the time was that of Kashmir and the plight of refugees from both wings of Pakistan. They interrupted Gandhiji's prayers, protested against his philosophy and

methods, his helping the cause of Muslims in India which went to the extent of preventing even those who wanted to go to Pakistan from doing so. The view held by Hindus and Sikhs from West Pakistan was that the Muslims should be sent away which was contrary to the policy of the Government of India or the views and wishes of Gandhiji himself. The Sardar realised that because of Gandhiji's refusal to allow security precautions being taken it would not be possible to safeguard his life. But the matters were aggravated by the payment of Rs. 55 crores to Pakistan which, according to the witness, was insisted upon by Gandhiji at the persuasion of Lord Mountbatten that it was a moral obligation.

12D.10 According to the witness, the police did not get any concrete or tangible evidence about the conspiracy until they got the confessional statement after which both the Intelligence Bureau and the Bombay Police were on the trail of those whose names had been mentioned by Madanlal. "Special groups of people were sent to trace them out from their reported places of refuge but they evaded police parties. I also know that a special watch was kept at possible points of entry into Delhi. As far as my recollection goes, Shri Nathuram Godse himself said that he was cognisant of these activities of the police and took successfully the precaution to avoid them". There were difficulties in detecting anyone because of the overcrowding at the railway station. The difficulty was highlighted by the fact that one Suryadev one of the conspirators had remained undetected for years after the murder.

12D.11 The actual investigation was entrusted to the Bombay Police but the officers of the Intelligence branch were asked to help them. As far as the witness could remember, Madanlal was locked up in Delhi, perhaps in Red Fort and it was there that he gave the information which he did. This impression of Mr. Shankar was erroneous.

12D.12 Mr. Shankar was examined by this Commission on April 10, 1967. He did not know anything about Ketkar's giving information through Balukaka Kanitkar but there was information of the existence of a hostile camp at Poona known as the Kesari school which was against Gandhiji and Savarkar was its inspiration. But their activities were watched by the Bombay Special Branch which since the British days used to deal with political matters and it was not the ordinary C.I.D. The witness said that the Sardar must have seen the statement of Madanlal made on the 25th January. Even earlier, a gist of the statements of Madanlal made from time to time were conveyed to him by the D.I.B. and the witness distinctly remembered that the Sardar had ordered to keep persons mentioned by Madanlal under surveillance.

12D.13 After Madanlal incident the Sardar tried to get Gandhiji's consent to plain-clothes policemen shadowing him during his journey from the room in Birla House to the place of the prayer meeting but he would not agree; however he had no objection to the tightening of the security measures in other respects in accordance with what has been stated above. The witness could not say

what actual action was taken by the police to ensure that those who could recognise Godse were posted at strategic points of access to the prayer ground. The District Magistrate was at the time a busy person and he could not keep in touch with the detailed developments in important cases of crime in his charge.

12D.14 In cross-examination by Mr. Vaidya, Mr. Shankar said that Mr. Morarji Desai or Mr. Kher used to tell the Home Minister on the telephone, or orally if the Sardar happened to be in Bombay, about important developments in the province. This also applied to the developments in regard to "this case". The witness did not know anything about Ketkar or Kanitkar. He did not have any recollection of the information about the conspiracy given by Mr. Morarji Desai to the Sardar nor did he have any recollection about Prof. Jain.

12D.15 The statements which were put by the witness before the Sardar are more detailed than Ex. 5. He could not recollect having seen the detailed statement of Madanlal but a report of the statement was received by the Sardar at that time. The witness could not remember when he was shown the short statement Ex. 5 and the long statement annexure IV (which is really Ex. 1, but has been wrongly recorded as Ex. 6) whether these were the statements which were received by the Sardar. He could not say what steps the Sardar took after the report was submitted to him. The Sardar used to get from the officers concerned what steps they proposed to take and then he would indicate his own mind. The reason why the investigation was handed over to the Bombay Police was that the main conspiracy was planned there.

12D.16 The statement of Mr. Shankar shows that—

- (1) The discussion between the Bombay Premier and the Home Minister indicated that there was a "move to assassinate Mahatma Gandhi and the centre of that movement was Poona".
- (2) The Sardar used to discuss this matter with the Intelligence officers at Delhi and in the Provinces and also with the Premiers and Home Ministers of the Provinces whenever he visited them or they came to Delhi.
- (3) When the bomb was thrown, the Sardar was at Ahmedabad. There Mr. Kher and Mr. Morarji Desai met him.
- (4) Action in regard to the conspiracy was left to be taken by the Government of Bombay but the general instructions were that the suspects should be kept under surveillance.
- (5) Although there were rumours previously, it was after the bomb was thrown that there was definite information about the conspiracy to murder Mahatma Gandhi upon which any concrete action could be taken.
- (6) As a result of the bomb throwing, the police at Birla House were strengthened.

- (7) Government was aware of the existence of a number of people who felt that the tragedy which had overtaken the Hindus of the Punjab and Bengal was a consequence of the appeasement policy of the Congress of which the inspiration came from Gandhiji. The feelings against Gandhiji's assumed serious form after Gandhiji's fast and thereafter the atmosphere was surcharged with hatred of Pakistan.
- (8) The Hindus and Sikhs insisted that the Mohammedans should be sent away from Delhi. The matters were aggravated when the 55 crores were paid at the persuasion of Lord Mountbatten who said it was a moral obligation.
- (9) After some tangible evidence of the conspiracy had been obtained from Madanlal's statement, the Intelligence Bureau and the Bombay Police were on the trail of those mentioned by Madanlal and special groups of people were sent to trace them from their haunts and even Nathuram Godse was aware of this activity but he managed to successfully evade it.
- (10) The actual investigation was entrusted to the Bombay Police but officers of the Intelligence Branch were asked to help him.
- (11) As far as the witness knew, Madanlal was kept in the Red Fort where he made his confessional statement. (This appears to be erroneous because the police case diaries and all the evidence produced before the Commission show that Madanlal was kept in Civil Lines Police Station and it was there that he was interviewed by Mehta Puran Chand.)
- (12) Mr. Shankar did not know anything about Ketkar or Kanitkar nor about the information which Mr. Morarji Desai gave to the Sardar nor about Professor Jain.
- (13) Statements of Madanlal were shown to the Sardar but the witness does not seem to be clear as to which statement was shown. He stated that the statement shown was more detailed than Ex. 5, but whether it was Ex. 1, i.e. the fuller statement of Madanlal, or Ex. 6, the statement made by Madanlal on the 1st day, the witness could not say.

Mr. R. N. Bannerjee, Wit. 19

12D.17 Mr. R. N. Banerjee, I.C.S. (retired) who was the Home Secretary of the Central Government at the time was examined by Mr. Pathak on January 22, 1966. In that statement he has given an account of what happened on January 30, 1948 and on the consecutive few days. His statement is this: he did not know of the conspiracy to murder Mahatma Gandhi prior to 30th January and the first he came to know about the conspiracy was on the 31st after the cremation, when a meeting of some of the highest of the land was held and it was there disclosed that there was a conspiracy to murder the Mahatma. Normally the Police should have informed him about the